

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter R. CUSTOMER PROTECTION RULES FOR RETAIL ELECTRIC SERVICE.

§25.471. General Provisions of Customer Protection Rules.

- (a) **Application.** This subchapter applies to aggregators and retail electric providers (REPs). In addition, where specifically stated, these rules apply to transmission and distribution utilities (TDUs), the registration agent, brokers and power generation companies. These rules specify when certain provisions are applicable only to some, but not all, of these providers.
- (1) Affiliated REP customer protection rules, to the extent the rules differ from those applicable to all REPs or those that apply to the provider of last resort (POLR), do not apply to the affiliated REP when serving customers outside the geographic area served by its affiliated transmission and distribution utility. The affiliated REP customer protection rules apply until the price-to-beat obligation ends in the affiliated REPs' affiliated TDU service territory.
 - (2) Requirements applicable to a POLR apply to a REP only in its provision of service as a POLR.
 - (3) The rules in this subchapter are minimum, mandatory requirements that must be offered to or complied with for all customers unless otherwise specified. Except for the provisions of §25.495 of this title (relating to Unauthorized Change of Retail Electric Provider), §25.481 of this title (relating to Unauthorized Charges), §25.485(a)-(b) of this title (relating to Customer Access and Complaint Handling), and §25.499 (relating to Acknowledgement of Risk Requirements for Certain Commercial Contracts), a customer other than a residential or small commercial class customer, or a non-residential customer whose load is part of an aggregation in excess of 50 kilowatts, may agree to terms of service that reflect either a higher or lower level of customer protections than would otherwise apply under these rules. Any agreements containing materially different protections from those specified in these rules must be reduced to writing and provided to the customer. Additionally, copies of such agreements must be provided to the commission upon request.
 - (4) The rules of this subchapter control over any inconsistent provisions, terms, or conditions of a REP's terms of service or other documents describing service offerings for customers in Texas.
 - (5) For purposes of this subchapter, a municipally owned utility or electric cooperative is subject to the same provisions as a REP where the municipally owned utility or electric cooperative sells retail electricity service outside its certificated service area.
- (b) **Purpose.** The purposes of this subchapter are to:
- (1) provide minimum standards for customer protection. An aggregator or REP may adopt higher standards for customer protection, provided that the prohibition on discrimination set forth in subsection (c) of this section is not violated;
 - (2) provide customer protections and disclosures established by other state and federal laws and rules including but not limited to the Fair Credit Reporting Act (15 U.S.C. §1681, et seq.) and the Truth in Lending Act (15 U.S.C. §1601, et seq.). Such protections are applicable where appropriate, whether or not it is explicitly stated in these rules;
 - (3) provide customers with sufficient information to make informed decisions about electric service in a competitive market; and
 - (4) prohibit fraudulent, unfair, misleading, deceptive, or anticompetitive acts and practices by aggregators, REPs, and brokers in the marketing, solicitation and sale of electric service, in the administration of any terms of service for electric service and in providing advice or procurement services to, or acting on behalf of, a retail electric customer regarding the selection of a retail electric provider, or a product or service offered by a retail electric provider.
- (c) **Prohibition against discrimination.** This subchapter prohibits REPs from unduly refusing to provide electric service or otherwise unduly discriminating in the marketing and provision of electric service to any customer because of race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability, familial status, location of customer in an economically distressed geographic area, or qualification for low-income or energy efficiency services.

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- (d) **Definitions.** For the purposes of this subchapter the following words and terms have the following meaning, unless the context indicates otherwise:
- (1) **Applicant** -- A person who applies for electric service via a move-in or switch with a REP that is not currently the person's REP of record or applies for aggregation services with an aggregator from whom the person is not currently receiving aggregation services.
 - (2) **Burned Veteran** -- A customer who is a military veteran who a medical doctor certifies has a significantly decreased ability to regulate body temperature because of severe burns received in combat.
 - (3) **Competitive energy services** -- As defined in §25.341 of this title (relating to Definitions).
 - (4) **Customer** -- A person who is currently receiving retail electric service from a REP in the person's own name or the name of the person's spouse, or the name of an authorized representative of a partnership, corporation, or other legal entity, including a person who is changing premises but is not changing their REP.
 - (5) **Electric service** -- Combination of the transmission and distribution service provided by a transmission and distribution utility, municipally owned utility, or electric cooperative, metering service provided by a TDU or a competitive metering provider, and the generation service provided to an end-use customer by a REP. This term does not include optional competitive energy services, as defined in §25.341 of this title, that are not required for the customer to obtain service from a REP.
 - (6) **Energy service** -- As defined in §25.223 of this title (relating to Unbundling of Energy Service).
 - (7) **Enrollment** -- The process of obtaining authorization and verification for a request for service that is a move-in or switch in accordance with this subchapter.
 - (8) **In writing** -- Written words memorialized on paper or sent electronically.
 - (9) **Move-in** -- A request for service to a new premise where a customer of record is initially established or to an existing premise where the customer of record changes.
 - (10) **Retail electric provider (REP)** -- Any entity as defined in §25.5 of this title (relating to Definitions). For purposes of this rule, a municipally owned utility or an electric cooperative is only considered a REP where it sells retail electric power and energy outside its certified service territory. An agent of the REP may perform all or part of the REP's responsibilities pursuant to this subchapter. For purposes of this subchapter, the REP will be responsible for the actions of the agent.
 - (11) **Small commercial customer** -- A non-residential customer that has a peak demand of less than 50 kilowatts during any 12-month period, unless the customer's load is part of an aggregation program whose peak demand is in excess of 50 kilowatts during the same 12- month period.
 - (12) **Switch** -- The process by which a person changes REPs without changing premises.
 - (13) **Termination of service** -- The cancellation or expiration of a service agreement or contract by a REP or customer.