

**PROJECT NO. 39926**

**RULEMAKING PROCEEDING TO § PUBLIC UTILITY COMMISSION  
AMEND PUC SUBSTANTIVE RULE §  
25.483 TO REVIEW RECONNECTION § OF TEXAS  
OF SERVICE**

**ORDER ADOPTING AMENDMENTS TO §25.483  
AS APPROVED AT THE NOVEMBER 16, 2012 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts amendments to §25.483, relating to Disconnection of Service, with changes to the proposed text as published in the July, 13, 2012 issue of the *Texas Register* (37 TexReg 5189). The amendments conform §25.483 to amendments made in §25.214, relating to Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities, adopted by the commission in Project Number 38674, *Amendments to Customer Protection Rules Relating to Advanced Meters*, with regard to Transmission and Distribution Utility (TDU) deadlines for reconnection of service. The amendments also conform §25.483 to amendments made to §25.497, relating to Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers, adopted by the commission in Project Number 40180, *Rulemaking to Amend Substantive Rule §25.497 to Make a Secondary/Emergency Contact Optional*, and the form approved by the commission in Project Number 39622, *Application for Chronic Condition or Critical Care Residential Customer Status*, by changing references from secondary contact to emergency contact. In addition, amendments to §25.483 clarify the intent of the rule regarding Retail Electric Provider (REP) timelines for submitting a reconnection request to the TDU, informing the customer when reconnection is expected to occur and the applicable charge to be assessed by the TDU for reconnection of

service. These amendments constitute a competition rule subject to judicial review as specified in Public Utility Regulatory Act (PURA) §39.001(e). Project Number 39926 is assigned to this proceeding.

The commission received comments on the proposed amendments from Oncor Electric Delivery Company, LLC and Texas New Mexico Power Company (Oncor/TNMP) and Texas Ratepayers' Organization to Save Energy (Texas ROSE), Texas Legal Services Center (TLSC), Texas Public Citizen, Paula Mixson, The Senior Source, and Carole Womac Thorp (TLSC and Texas ROSE).

The commission also received comments from the REP Coalition which was composed of the Alliance for Retail Markets (ARM); CPL Retail Energy, LP; Direct Energy, LP; Green Mountain Energy Company; First Choice Power Special Purpose, LP; Reliant Energy Retail Services, LLC; Stream Energy; Texas Association of Marketers (TEAM); TXU Energy Retail Company, LLC; and WTU Retail Energy. The participating members of ARM with respect to the REP Coalition comments were Ambit Energy, LP; Champion Energy Services, LLC; Constellation New Energy, Inc.; Gexa Energy, LP; Star Tex Power; Direct Energy, LP; Stream Energy; and Green Mountain Energy Company. The participating members of TEAM, with respect to the REP Coalition comments, were Accent Energy; Amigo Energy; Bounce Energy; Cirro Energy; dPi Energy; Green Mountain Energy; Hudson Energy; Just Energy; Star Tex Power; Stream Energy; Tara Energy and Tri Eagle.

*Subsections (a) – (f)*

No comments.

*Subsection (g); Disconnection of Critical Care Residential Customers**Subsection (h); Disconnection of Chronic Condition Residential Customers*

TLSC and Texas ROSE acknowledged that amendments to this rule respond to commission amendments to other rules that impact §25.483. They voiced no recommendations regarding the conforming amendments that change the term “secondary” contact to “emergency (secondary)” contact when referring to a chronic condition or critical care residential customer’s selection of another person for the TDU and/or REP to contact before disconnection of service is made.

*Commission Response*

**The commission appreciates the comments of TLSC and Texas ROSE regarding the conforming changes to subsections (g) and (h) and maintains the language in the proposed rule.**

*Subsections (i) – (m)*

No comments.

*Subsection (n); Reconnection of Service*

The REP Coalition supported the amendments to §25.483 and understood that these amendments are consistent with commission guidance provided for this project at the April 27, 2012 open meeting. They acknowledged that the proposed amendments do not alter the current rule’s

requirements other than to clarify the timelines for REPs to submit reconnection requests to the TDU and to conform the rule's language to be consistent with recently adopted amendments to §25.214, relating to Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities (tariff). Although the REP Coalition agreed that proposed amendments to subsection (n) are not intended to require REPs to provide qualitatively different information to customers than what is currently provided, the REP Coalition expressed concern that the language of the proposed rule could be interpreted to impose new requirements that direct the REP to explain in detail the process used by REPs and TDUs to reconnect a customer's service. They opined that although the reconnection timelines and associated deadlines in the rule and tariff are important to the REP and TDU, explaining the reconnection process to customers would confuse them and would not likely be helpful. The REP Coalition proposed clarifying language to the proposed rule to ensure that customers receive what they most need - an estimation of when the TDU will perform the reconnection in accordance with the timelines in the rule.

*Commission Response*

**The commission appreciates the comments of the REP Coalition and believes the intent of the rule is to inform the customer when the reconnection is expected to occur. Therefore, the commission agrees to clarify the rule accordingly**

Oncor/TNMP acknowledged that amendments to §25.483 are meant to conform the rule to changes made in other rules and to clarify the intent of the rule regarding REP timelines for submitting reconnection requests to the TDU. In addition, they supported commission staff's

efforts to streamline §25.483 by providing a reference to §25.214 regarding TDU reconnection timelines rather than including the specific language from the tariff. Oncor/TNMP asserted that additional changes to “clean-up” the rule need to be made and suggested that any reference to TDU charges be removed from the rule to let the provisions of the tariff speak for themselves. They opined that it is inappropriate to address TDU charges and requirements in a rule that is specific to REP requirements. They stated that provisions in §25.214 clearly differentiate the requirements for a standard reconnect request and a same-day reconnect request. They also observed that the ERCOT Retail Market Guide Section 7.6.3.7 provides further requirements related to REPs requesting same-day reconnect service. Oncor/TNMP argued that the provisions relating to the TDU’s assessment of a same-day reconnect fee are redundant and should be removed from the rule. Furthermore, they warned that leaving these provisions in the rule could lead to future contradictions between the rules similar to one that they noted exists between §25.483 prior to the commission’s proposed amendments in this rulemaking project and the tariff today, which create confusion for market participants.

Oncor/TNMP opined that provisions relating to TDU charges should have been added to §25.214 in Project Number 38674 and removed from §25.483. However, in the event that the commission declines to remove these provisions, Oncor/TNMP requested that the provisions be revised. They noted that the proposed language addresses standard reconnect requests for premises without a provisioned advanced meter with remote disconnect/reconnect capabilities and specifies what a TDU shall not charge as opposed to what they shall charge. They asked that this provision be stated in the affirmative rather than the negative. Oncor/TNMP also requested that the rule language that makes the appropriate TDU charge dependent on what a customer

expressly requests be changed. Oncor/TNMP submitted that they will not know what the customer expressly requests, only what the REP requests.

Finally, Oncor/TNMP requested that if the commission leaves language referencing TDU charges in the rule, a provision be added that would allow them to assess the appropriate TDU weekend/holiday charge to address a situation that may occur when the REP sends a standard or same-day reconnect request on a day that would require the reconnection to be performed on a weekend or a holiday due to the requirement to have all reconnects performed within 48 hours.

The REP Coalition opposed Oncor/TNMP's request to remove any references to TDU charges in the rule. They asserted that the proposed language modifies language in the existing rule to continue to clarify that the TDU should not assess a same-day reconnection fee unless the REP submits a same-day reconnect request. They noted that Oncor/TNMP acknowledged that this concept does not currently appear in §25.214. Because of this, the REP Coalition asserted that the requirement should remain in the rule. In response to Oncor/TNMP's alternative suggestion to modify the proposed amendments, the REP Coalition reiterated that it supports the proposed language in subsection (n) relating to reconnection fees, but that it could also support the language as proposed by Oncor/TNMP.

The REP Coalition lacked support for the TDU's request to add a provision to address a situation that may occur when the REP sends out a standard or same-day reconnect request on a day that would require the reconnection to be performed on a weekend or holiday due to the requirement to perform all reconnects within 48 hours. They explained that this subject matter is already

addressed in §25.214 and opined that since this issue is not addressed in the current version of the rule, it should be rejected as outside the scope of this proceeding.

The REP Coalition noted that in its Order adopting amendments to §25.214 in Project Number 38674, the commission determined that it would establish a project for the purpose of a comprehensive review of Section 6.1.2.1 of the tariff. The Order stated: “Therefore, six months after implementation of TX SET 4.0, which will be the date these amendments to the Tariff for Retail Delivery Service become effective, the commission shall establish a project for the purpose of a comprehensive review of Section 6.1.2.1 of the tariff. This project shall include, but is not limited to, a review of the timelines for ‘Premises with a Provisioned Advanced Meter with Remote Disconnect/Reconnect Capabilities’ applicable to the following discretionary services in Section 6.1.2.1: Standard Move-in, Priority Move-In, Move-Out, Disconnect for Non-Pay (DNP), and Reconnect After DNP. This review will include an evaluation of whether the deadlines for receipt of requests in those timelines should be extended.” The REP Coalition opined that this will give the commission the opportunity to include language relating to the same-day reconnection fee in the tariff and suggested that any resulting redundancy between subsection (n) and §25.214 could be addressed in a subsequent rulemaking project.

*Commission Response*

**The commission appreciates the support of Oncor/TNMP for the proposed replacement of specific language relating to a TDU’s timeline for reconnection of service with a reference to §25.214 that fully addresses this issue. The commission adopts these changes.**

In response to Oncor/TNMP's request to continue to "clean-up" §25.483 by removing any references to TDU charges, the commission acknowledges that while the requirements for a standard reconnect and a same-day reconnect request are differentiated in §25.214, and the ERCOT Retail Market Guide provides requirements related to REPs requesting same-day reconnection of service, the specific provision, as noted by the REP Coalition, in §25.483 relating to the assessment of a same-day reconnect fee are not duplicated in §25.214 or the Retail Market Guide. The commission disagrees with Oncor/TNMP that it is inappropriate to address TDU charges and requirements in a rule that is specific to REP requirements and notes that in the order adopting amendments made in Project Number 27084, *PUC Rulemaking to Revise Customer Protection Rules*, the commission found that: "While the standard Tariff for Retail Delivery Service should continue to govern the relationship between the TDU and the REP in the majority of circumstances...there are instances in which it is appropriate for the customer protection rules to specify TDU roles and responsibilities towards the REP (i.e., when the end-use customer is ultimately affected, or where coordination between the REP and TDU are critical to fulfilling the requirements of the rules, such as in the case of reconnection)." As Oncor/TNMP and the REP Coalition pointed out in their comments, the commission may open up a project for a comprehensive review of §25.214, Section 6.1.2.1., to address TDU charges and timelines for completion of service requests in detail. Should the commission add a provision to §25.214 that mirrors what is in §25.483, then the commission may choose to replace specific language in §25.483 regarding TDU charges with a reference to §25.214 in a later rulemaking. However, since this language does not currently reside in §25.214 and because it protects the REP and customer by assuring that the TDU will not assess a same-day reconnect fee unless a same

day reconnect is requested, the commission declines to remove the provision. Additionally, a change of this nature would be outside the scope of this rulemaking, which is to conform this rule to amendments adopted in other rules as well as to clarify the intent of the rule.

Alternatively, Oncor/TNMP requested that language regarding TDU charges be revised should the commission decline to delete the provision. The commission agrees with Oncor/TNMP's recommendation to state in the affirmative that a TDU shall assess a standard reconnect fee for a standard reconnect request even if the TDU completes the request in the same day and clarifies the rule accordingly.

Oncor/TNMP also asked that rule language that makes the appropriate TDU charge dependent on what a customer expressly requests be modified. The commission concurs with Oncor/TNMP that a TDU will not know what the customer expressly requests, only what the REP requests. Therefore, the commission clarifies the rule accordingly.

In response to Oncor/TNMP's request to add a provision to allow a TDU to assess the appropriate TDU weekend/holiday charge to address a situation that could arise when the REP sends out a standard or same-day reconnect request on a day that would require the reconnection to be performed on a weekend or holiday due to the requirement to have all reconnects performed within 48 hours, the commission agrees with the REP Coalition and notes that such a provision already exists in §25.214 and therefore declines to add it to this rule. Furthermore, the commission agrees with the REP Coalition that this change falls outside the scope of this rulemaking.

TLSC and Texas ROSE referred to Project Number 37622, *Rulemaking Proceeding to Amend Customer Protection Rules Relating to Designation of Critical Care Customers*, and Project Number 38674 and noted that they have previously voiced opposition to the disconnection of a chronic condition or critical care residential customer. In addition, they noted that they urged the commission in Project Number 38674 to require TDUs to provide services for customers with provisioned advanced meters at no additional cost even if the communication system fails and to require REPs to request reconnection on a 24/7 basis as disconnected customers pay their debts. They opined that even though residential customers are paying monthly fees to support advanced metering systems, there is no guarantee that residential customers will receive faster reconnection of service at lower costs because of the advanced metering systems.

TLSC and Texas ROSE commented that the recently amended §25.214 sets up different timelines that the TDU must follow for residential reconnection of service. Prepaid customers with a provisioned advanced meter with remote disconnect/reconnect capability are required to be connected faster than postpaid customers with meters of the same type. Other timelines are required for a customer with a provisioned advanced meter that is not communicating and for those customers without a provisioned advanced meter with remote disconnect/reconnect capability depending on whether or not a standard or same-day reconnect is requested.

TLSC and Texas ROSE noted that chronic condition or critical care residential customers who have been afforded extra protections in the commission rules to allow them to stay connected with electricity have been relegated to longer wait times for reconnection of service than

customers receiving prepaid service. Although TLSC and Texas ROSE opined that chronic condition or critical care residential customers should never be disconnected, they posited that if their service is disconnected it should be reconnected as quickly as possible. They noted that under §25.214 the quickest reconnection timeline is required for prepaid customers with a provisioned advanced meter with remote disconnect/reconnect capability. They recommended that subsection (n) be amended to require that chronic condition or critical care residential customers be reconnected by the TDU using the same time limits as those established for prepaid customers.

TLSC and Texas ROSE also asked that the commission waive any fees for same-day reconnection of electric service to chronic condition or critical care residential customers. They suggested that this waiver should apply at all times, including holidays and any day that is not an AMS Operational Day or Field Operational Day. They asserted that the commission's current rules already acknowledge that it is in the public's interest to provide greater assurances that chronic condition or critical care residential customers are connected with electric service and that waiving the same-day reconnection fee will provide greater assurance that these customers will not be without service.

TLSC and Texas ROSE noted that although the TDU is required to reconnect service 24/7 for customers with a provisioned advanced meter, there has been no corresponding change in timelines for the REP to request reconnection of service. The result is that there is only one window of opportunity for a customer to have their electricity turned on the same day they make payment in instances where the customer does not have an advanced metering system (AMS)

meter or the AMS meter is unable to provide remote disconnection or reconnection of service. As a solution, they offered that both REPs and TDUs should have their systems monitored and operating 24/7 in order to respond to disconnected customers making payment. In addition, TLSC and Texas ROSE urged that the turn-around time from customer payment to the REP reconnection request be no more than two hours. They opined that since the TDU is given one to two hours for reconnection, it is only fair that the REP be required to submit a reconnection request in an equivalent timeframe. They stated that the TDU's shortened reconnection timeline will benefit the customer only to the extent that the REP expedites the processing of reconnection transactions to the TDU. Finally, TLSC and Texas ROSE requested that subsections (n)(6) and (7), which they believed allows a customer to have no power for up to four days after paying a bill, be deleted.

The REP Coalition noted that the scope of this rulemaking project is limited to amendments necessary to achieve conformity and consistency with recent revisions to other rules that include recent modifications to §25.214 in Project Number 38674. They noted that the preamble to the proposed rule amendments approved for publication at the June 28, 2012 open meeting, clearly reflects the limited scope of review. They asserted that the provisions requested by TLSC and Texas ROSE fall outside the scope of this rulemaking project and should, therefore, be rejected.

Oncor/TNMP disagreed with TLSC and Texas ROSE's suggestion that §25.483 be amended to include a statement that for the purposes of §25.214, chronic condition or critical care residential customers shall be reconnected by the TDU using the same time limits as those established for prepaid customers. They pointed out that in its Order adopting amendments to §25.214 in

Project Number 38674, the commission determined that it would review AMS-related timelines in a future proceeding. They submitted that all such timelines should be reviewed at the same time for purposes of consistency rather than considering specific timelines for certain customers in other proceedings, as TLSC and Texas ROSE is proposing.

In response to TLSC and Texas ROSE's suggestion that the same-day reconnect fee be reduced to \$0.00 for chronic condition and critical care residential customers, Oncor/TNMP reiterated their position that rather than address TDU requirements in a rule that is specific to REP requirements, all such references should be removed from §25.483 and that §25.214 should be the sole rule to address such provisions. Additionally, they found TLSC and Texas ROSE's suggestion to be unreasonable and asked that it be rejected because the fee at issue is for same-day reconnection after non-payment. Oncor/TNMP stated that there is no reason why chronic condition or critical care residential customers should be treated in an advantageous manner with respect to the costs they impose on the TDU's system by failing to pay their bill to the REP. They opined that TLSC and Texas ROSE provided no rational basis why these customers should be provided a monetary advantage compared to any other customer that fails to pay their bill. Finally, Oncor/TNMP asserted that setting a rate for a particular service for a certain subset of customers is inappropriate and such decisions should be made in a general rate case where the effect of such an impact on other customers can be calculated and considered before such a determination is made.

*Commission Response*

In regard to TLSC and Texas ROSE's request to add a provision to §25.483 that would require the TDU to reconnect chronic condition or critical care residential customers under the same standards that apply to prepaid customers, the commission believes that the appropriate place for a change to the TDU timeline is in §25.214, not §25.483. The commission agrees with Oncor/TNMP that changes made in this rulemaking regarding TDU timelines streamline the rule by removing specific language contained in §25.483 and replacing the language with a reference to §25.214, which fully addresses the issue.

In response to TLSC and Texas ROSE's request to waive the same-day reconnection charge for chronic condition or critical care residential customers, the commission concurs with Oncor/TNMP that an amendment to waive certain TDU charges would be more appropriately made in the TDU's tariff, where TDU charges are more fully addressed. As noted in an earlier response, the commission found that the TDU's tariff should govern the relationship between the TDU and the REP in the majority of circumstances. Finally, the commission notes that the preamble to the published rule clearly outlined the limited scope of this rulemaking; that is, to conform this rule to amendments adopted in other rules and to clarify the intent of the rule. The revisions requested by TLSC and Texas ROSE fall outside the scope of this rulemaking and the commission declines to make the requested changes.

Additionally, the commission declines to amend the rule to require that REPs be required to have their systems monitored and operating 24/7 in order to respond to disconnected

customers making payment or require a deadline of no more than two hours be imposed on a REP to request reconnection of service after a customer makes a payment. The commission notes that §25.483 outlines the minimum requirements a REP must meet regarding timelines for submitting a reconnection request. In order to be effective in the competitive market, the commission believes that a number of REPs already exceed these minimum requirements and expects others will choose to do so in order to succeed in the competitive market environment. As noted above, these requested changes fall out of the scope of this rulemaking.

Finally, in response to TLSC and Texas ROSE's request that subsections (n)(6) and (7) be deleted, the commission points out that because the provisions of subsection (n)(7) are also in §25.214, the commission removed subsection (n)(7) as part of the proposed rule amendments and hereby adopts the deletion of subsection (n)(7). In regard to the provisions of subsection (n)(6), the commission notes that this requirement remains in the rule as an important customer protection. In the order adopting amendments made in Project Number 27084, *PUC Rulemaking to Revise Customer Protection Rules*, the commission gave this response regarding subsections (n)(6) and (7): "However, as an added protection, the commission amends §25.483(n) to indicate that in no event shall a REP take longer than 48 hours after customer cures the reason for the disconnection to request a reconnection and that in no event shall a TDU take longer than 48 hours to process a reconnection request from a REP. The commission believes that this language addresses concerns that a customer may fail to be reconnected in a timely manner after payment due to a weekend, holiday, or any other reason. The commission also believes it

**critical to make absolutely clear that the other timelines in this rule will in most cases control over the absolute limit of 48 hours....” The order continues by noting that the deadlines imposed by this rule are minimum standards that dictate the absolute latest a customer should be reconnected. For this reason and because TLSC and Texas ROSE’s request falls outside the scope of this rulemaking, the commission declines to make the requested change.**

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting these amendments, the commission makes changes for the purpose of clarifying its intent.

These amendments are adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.001 (West 2007 and Supp. 2012) (PURA), which gives the commission the general power to regulate and supervise the business of each public utility within its jurisdiction; §14.002, which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and, in particular, §14.005, which gives the commission authority to create criteria for the termination of services to the elderly and disabled; and §17.004(b) and §39.101(e), which grant the commission authority to adopt and enforce rules as necessary or appropriate for carrying out customer protections, including minimum service standards and termination of service.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.005, 17.004(b), and 39.101(e).

**§25.483. Disconnection of Service.**

(a) **Disconnection and reconnection policy.** Only a transmission and distribution utility (TDU), municipally owned utility, or electric cooperative shall perform physical disconnections and reconnections. Unless otherwise stated, it is the responsibility of a retail electric provider (REP) to request such action from the appropriate TDU, municipally owned utility, or electric cooperative in accordance with that entity's relevant tariffs, in accordance with the protocols established by the registration agent, and in compliance with the requirements of this section. If a REP chooses to have a customer's electric service disconnected, it shall comply with the requirements in this section. Nothing in this section requires a REP to request that a customer's service be disconnected.

(b) **Disconnection authority.**

(1) Any REP may authorize the disconnection of a medium non-residential or large non-residential customer, as that term is defined in §25.43 of this title (relating to Provider of Last Resort (POLR)).

(2) Except as provided in subsection (d) of this section, all REPs shall have the authority to authorize the disconnection of residential and small non-residential customers pursuant to commission rules. Prior to authorizing disconnections for non-payment in accordance with this paragraph, a REP shall:

(A) test all necessary electronic transactions related to disconnections and reconnections of service; and

(B) file an affidavit from an officer of the company, in a project established by the commission for this purpose, affirming that the REP understands and has trained its personnel on the commission's rule requirements related to disconnection and reconnection, and has adequately tested the transactions described in subparagraph (A) of this paragraph.

(c) **Disconnection with notice.** A REP having disconnection authority under the provisions of subsection (b) of this section, including the POLR, may authorize the disconnection of a customer's electric service after proper notice and not before the first day after the disconnection date in the notice for any of the following reasons:

- (1) failure to pay any outstanding bona fide debt for electric service owed to the REP or to make deferred payment arrangements by the date of disconnection stated on the disconnection notice. Payment of the delinquent bill at the REP's authorized payment agency is considered payment to the REP;
- (2) failure to comply with the terms of a deferred payment agreement made with the REP;
- (3) violation of the REP's terms and conditions on using service in a manner that interferes with the service of others or the operation of nonstandard equipment, if a reasonable attempt has been made to notify the customer and the customer is provided with a reasonable opportunity to remedy the situation;
- (4) failure to pay a deposit as required by §25.478 of this title (relating to Credit Requirements and Deposits); or

- (5) failure of the guarantor to pay the amount guaranteed, when the REP has a written agreement, signed by the guarantor, which allows for disconnection of the guarantor's service.
- (d) **Disconnection without prior notice.** Any REP or TDU may, at any time, authorize disconnection of a customer's electric service without prior notice for any of the following reasons:
- (1) Where a known dangerous condition exists for as long as the condition exists. Where reasonable, given the nature of the hazardous condition, the REP, or its agent, shall post a notice of disconnection and the reason for the disconnection at the place of common entry or upon the front door of each affected residential unit as soon as possible after service has been disconnected;
  - (2) Where service is connected without authority by a person who has not made application for service;
  - (3) Where service is reconnected without authority after disconnection for nonpayment;
  - (4) Where there has been tampering with the equipment of the transmission and distribution utility, municipally owned utility, or electric cooperative; or
  - (5) Where there is evidence of theft of service.
- (e) **Disconnection prohibited.** A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for nonpayment of a customer's electric service for any of the following reasons:

- (1) Delinquency in payment for electric service by a previous occupant of the premises;
- (2) Failure to pay for any charge that is not for electric service regulated by the commission, including competitive energy service, merchandise, or optional services;
- (3) Failure to pay for a different type or class of electric service unless charges for such service were included on that account's bill at the time service was initiated;
- (4) Failure to pay charges resulting from an underbilling, except theft of service, more than six months prior to the current billing;
- (5) Failure to pay disputed charges, except for the amount not under dispute, until a determination as to the accuracy of the charges has been made by the REP or the commission, and the customer has been notified of this determination;
- (6) Failure to pay charges arising from an underbilling due to any faulty metering, unless the meter has been tampered with or unless such underbilling charges are due under §25.126 of this title (relating to Adjustments Due to Non-Compliant Meters and Meter Tampering in Areas Where Customer Choice Has Been Introduced); or
- (7) Failure to pay an estimated bill other than a bill rendered pursuant to an approved meter-reading plan, unless the bill is based on an estimated meter read by the TDU.

(f) **Disconnection on holidays or weekends.**

- (1) A REP having disconnection authority under the provisions of subsection (b) of this section shall not request disconnection of a customer's electric service for nonpayment on a holiday or weekend, or the day immediately preceding a holiday or weekend, unless the REP's personnel are available on those days to take payments, make payment arrangements with the customer, and request reconnection of service.
- (2) Unless a dangerous condition exists or the customer requests disconnection, a TDU shall not disconnect a customer's electric service on a holiday or weekend, or the day immediately preceding a holiday or weekend, unless the personnel of the TDU are available to reconnect service on all of those days.

(g) **Disconnection of Critical Care Residential Customers.** A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for nonpayment of electric service at a permanent, individually metered dwelling unit of a delinquent Critical Care Residential Customer when that customer establishes that disconnection of service will cause some person at that residence to become seriously ill or more seriously ill.

- (1) Each time a Critical Care Residential Customer seeks to avoid disconnection of service under this subsection, the customer shall accomplish all of the following by the stated date of disconnection:
  - (A) Have the person's attending physician (for purposes of this subsection, the "physician" shall mean any public health official, including medical

doctors, doctors of osteopathy, nurse practitioners, registered nurses, and any other similar medical professional) contact the REP to confirm that the customer is a Critical Care Residential Customer;

- (B) Have the person's attending physician submit a written statement to the REP confirming that the customer is a Critical Care Residential Customer;  
and
  - (C) Enter into a deferred payment plan.
- (2) The prohibition against service disconnection of a Critical Care Residential Customer provided by this subsection shall last 63 days from the issuance of the bill for electric service or a shorter period agreed upon by the REP and the customer, emergency (secondary) contact listed on the commission-approved application form, or attending physician. If the Critical Care Residential Customer does not accomplish the requirements of paragraph (1) of this subsection:
- (A) The REP shall provide written notice to the Critical Care Residential Customer and the emergency contact listed on the commission-approved application form of its intention to disconnect service not later than 21 days prior to the date that service would be disconnected. Such notice shall be a separate mailing or hand delivered notice with a stated date of disconnection with the words "disconnection notice" or similar language prominently displayed. If the REP has offered and the customer has agreed for the customer and/or emergency contact to receive disconnection notices from the REP by email, a separate email with the words

“disconnection notice” or similar language in the subject line shall be sent in addition to the separate mailing or hand delivered notice. Except as provided in this subsection, the notice shall comply with the requirements of subsections (l) and (m) of this section; and

- (B) Prior to disconnecting a Critical Care Residential Customer, a TDU shall contact the customer and the emergency contact listed on the commission-approved application form. If the TDU does not reach the customer and emergency contact by phone, the TDU shall visit the premises, and, if there is no response, shall leave a door hanger containing the pending disconnection information and information on how to contact the REP and TDU.
- (3) If, in the normal performance of its duties, a TDU obtains information that a customer scheduled for disconnection may qualify for delay of disconnection pursuant to this subsection, and the TDU reasonably believes that the information may be unknown to the REP, the TDU shall delay the disconnection and promptly communicate the information to the REP. The TDU shall disconnect such customer if it subsequently receives a confirmation of the disconnect notice from the REP. Nothing herein should be interpreted as requiring a TDU to assess or to inquire as to the customer’s status before performing a disconnection when not otherwise required.
- (4) If a TDU refuses to disconnect a Critical Care Residential Customer pursuant to this subsection, it shall cease charging all transmission and distribution charges

and surcharges, except securitization-related charges, for that premises to the REP.

- (h) **Disconnection of Chronic Condition Residential Customers.** A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for nonpayment of electric service at a permanent, individually metered dwelling unit of a delinquent customer when that customer has been designated as a Chronic Condition Residential Customer pursuant to §25.497 of this title (relating to Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers), except as provided in this subsection. The REP shall notify the Chronic Condition Residential Customer and the emergency contact listed on the commission-approved application form with a written notice of its intention to disconnect service not later than 21 days prior to the date that service would be disconnected. Such notice shall be a separate mailing or hand delivered notice with a stated date of disconnection with the words “disconnection notice” or similar language prominently displayed. If the REP has offered and the customer has agreed for the customer and/or emergency contact to receive disconnection notices from the REP by email, a separate email with the words “disconnection notice” or similar language in the subject line shall be also be sent in addition to the separate mailing or hand delivered notice. Except as provided in this subsection, the notice shall comply with the requirements of subsections (l) and (m) of this section.

(i) **Disconnection of energy assistance clients.**

- (1) A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for nonpayment of electric service to a delinquent residential customer for a billing period in which the REP receives a pledge, letter of intent, purchase order, or other notification that the energy assistance provider is forwarding sufficient payment to continue service provided that such pledge, letter of intent, purchase order, or other notification is received by the due date stated on the disconnection notice, and the customer, by the due date on the disconnection notice, either pays or makes payment arrangements to pay any outstanding debt not covered by the energy assistance provider.
- (2) If an energy assistance provider has requested monthly usage data pursuant to §25.472(b)(4) of this title (relating to Privacy of Customer Information), the REP shall extend the final due date on the disconnection notice, day for day, from the date the usage data was requested until it is provided.
- (3) A REP shall allow at least 45 days for an energy assistance provider to honor a pledge, letter of intent, purchase order, or other notification before submitting the disconnection request to the TDU.
- (4) A REP may request disconnection of service to a customer if payment from the energy assistance provider's pledge is not received within the time frame agreed to by the REP and the energy assistance provider, or if the customer fails to pay any portion of the outstanding balance not covered by the pledge.

- (j) **Disconnection during extreme weather.** A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for nonpayment of electric service for any customer in a county in which an extreme weather emergency occurs. A REP shall offer residential customers a deferred payment plan upon request by the customer that complies with the requirements of §25.480 of this title (relating to Bill Payment and Adjustments) for bills that become due during the weather emergency.
- (1) The term “extreme weather emergency” shall mean a day when:
- (A) the previous day’s highest temperature did not exceed 32 degrees Fahrenheit, and the temperature is predicted to remain at or below that level for the next 24 hours anywhere in the county, according to the nearest National Weather Service (NWS) reports; or
- (B) the NWS issues a heat advisory for a county, or when such advisory has been issued on any one of the preceding two calendar days in a county.
- (2) A TDU shall notify the commission of an extreme weather emergency in a method prescribed by the commission, on each day that the TDU has determined that an extreme weather emergency has been issued for a county in its service area. The initial notice shall include the county in which the extreme weather emergency occurred and the name and telephone number of the utility contact person.
- (k) **Disconnection of master-metered apartments.** When a bill for electric service is delinquent for a master-metered apartment complex:

- (1) The REP having disconnection authority under the provisions of subsection (b) of this section shall send a notice to the customer as required by this subsection. At the time such notice is issued, the REP, or its agents, shall also inform the customer that notice of possible disconnection will be provided to the tenants of the apartment complex in six days if payment is not made before that time.
  - (2) At least six days after providing notice to the customer and at least four days before disconnecting, the REP shall post a minimum of five notices in English and Spanish in conspicuous areas in the corridors or other public places of the apartment complex. Language in the notice shall be in large type and shall read: “Notice to residents of (name and address of apartment complex): Electric service to this apartment complex is scheduled for disconnection on (date), because (reason for disconnection).”
- (1) **Disconnection notices.** A disconnection notice for nonpayment shall:
- (1) not be issued before the first day after the bill is due;
  - (2) be a separate mailing or hand delivered notice with a stated date of disconnection with the words “disconnection notice” or similar language prominently displayed or, if the REP has offered and the customer has agreed to receive disconnection notices from the REP by email, be a separate email with the words “disconnection notice” or similar language in the subject line. The REP may send the disconnection notice concurrently with the request for a deposit;

- (3) have a disconnection date that is not a holiday, weekend day, or day that the REP's personnel are not available to take payments, and is not less than ten days after the notice is issued; and
  - (4) include a statement notifying the customer that if the customer needs assistance paying the bill by the due date, or is ill and unable to pay the bill, the customer may be able to make some alternate payment arrangement, establish a deferred payment plan, or possibly secure payment assistance. The notice shall also advise the customer to contact the provider for more information.
- (m) **Contents of disconnection notice.** Any disconnection notice shall include the following information:
- (1) The reason for disconnection;
  - (2) The actions, if any, that the customer may take to avoid disconnection of service;
  - (3) The amount of all fees or charges which will be assessed against the customer as a result of the default;
  - (4) The amount overdue;
  - (5) A toll-free telephone number that the customer can use to contact the REP to discuss the notice of disconnection or to file a complaint with the REP, and the following statement: "If you are not satisfied with our response to your inquiry or complaint, you may file a complaint by calling or writing the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas, 78711-3326; Telephone: (512) 936-7120 or toll-free in Texas at (888) 782-8477. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission at

(512) 936-7136. Complaints may also be filed electronically at [www.puc.texas.gov/ocp/complaints/complain.cfm](http://www.puc.texas.gov/ocp/complaints/complain.cfm);

- (6) If a deposit is being held by the REP on behalf of the customer, a statement that the deposit will be applied against the final bill (if applicable) and the remaining deposit will be either returned to the customer or transferred to the new REP, at the customer's designation and with the consent of both REPs;
  - (7) The availability of deferred payment or other billing arrangements, from the REP, and the availability of any state or federal energy assistance programs and information on how to get further information about those programs; and
  - (8) A description of the activities that the REP will use to collect payment, including the use of consumer reporting agencies, debt collection agencies, small claims court, and other remedies allowed by law, if the customer does not pay or make acceptable payment arrangements with the REP.
- (n) **Reconnection of service.** Upon a customer's satisfactory correction of the reasons for disconnection, the REP shall request the TDU, municipally owned utility, or electric cooperative to reconnect the customer's electric service as quickly as possible. The REP shall inform the customer when reconnection is expected to occur in accordance with the timelines set forth in this subsection and in §25.214 of this title (relating to Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities). For premises without a provisioned advanced meter with remote disconnect/reconnect capabilities, if a REP submits a standard reconnect request and the TDU completes the reconnect the same day, the TDU shall assess a standard reconnect

fee. A TDU may assess a same-day reconnect fee only when the REP expressly requests a same-day reconnect and a REP may pass through a same-day reconnect fee to the customer only when the customer expressly requests a same-day reconnect. A REP shall send a reconnection request no later than the timelines in this subsection. The TDU shall complete the reconnection in accordance with the timelines in §25.214 of this title.

- (1) For payments made before 12:00 p.m. on a business day, a REP shall send a reconnection request to the TDU no later than 2:00 p.m. on the same day.
- (2) For payments made after 12:00 p.m. but before 5:00 p.m. on a business day, a REP shall send a reconnection request to the TDU by 7:00 p.m. on the same day.
- (3) For payments made after 5:00 p.m. but before 7:00 p.m. on a business day, a REP shall send a reconnection request to the TDU by 9:00 p.m. on the same day.
- (4) For payments made after 7:00 p.m. on a business day, a REP shall send a reconnection request to the TDU by 2:00 p.m. on the next business day.
- (5) For payments made on a weekend day or a holiday, a REP shall send a reconnection request to the TDU by 2:00 p.m. on the first business day after the payment was made.
- (6) In no event shall a REP fail to send a reconnection notice within 48 hours after the customer's satisfactory correction of the reasons for disconnection as specified in the disconnection notice.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §25.483 relating to Disconnection of Service is hereby adopted with changes to the text as proposed.

**SIGNED AT AUSTIN, TEXAS on the \_\_\_\_\_ day of \_\_\_\_\_ 2012.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DONNA L. NELSON, CHAIRMAN**

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**KENNETH W. ANDERSON, JR., COMMISSIONER**

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**ROLANDO PABLOS, COMMISSIONER**