

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

**Subchapter R. CUSTOMER PROTECTION RULES FOR RETAIL ELECTRIC SERVICE.**

**§25.497. Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers.**

- (a) **Definitions.** The following words and terms, when used in this section, shall have the following meanings unless the context indicates otherwise.
- (1) **Critical Load Public Safety Customer** -- A customer for whom electric service is considered crucial for the protection or maintenance of public safety, including but not limited to hospitals, police stations, fire stations, and critical water and wastewater facilities.
  - (2) **Critical Load Industrial Customer** -- An industrial customer for whom an interruption or suspension of electric service will create a dangerous or life-threatening condition on the retail customer's premises, is a "critical load industrial customer."
  - (3) **Chronic Condition Residential Customer** -- A residential customer who has a person permanently residing in his or her home who has been diagnosed by a physician as having a serious medical condition that requires an electric-powered medical device or electric heating or cooling to prevent the impairment of a major life function through a significant deterioration or exacerbation of the person's medical condition. If that serious medical condition is diagnosed or re-diagnosed by a physician as a life-long condition, the designation is effective under this section for the shorter of one year or until such time as the person with the medical condition no longer resides in the home. Otherwise, the designation or re-designation is effective for 90 days.
  - (4) **Critical Care Residential Customer** -- A residential customer who has a person permanently residing in his or her home who has been diagnosed by a physician as being dependent upon an electric-powered medical device to sustain life. The designation or redesignation is effective for two years under this section.
- (b) **Eligibility for protections.** In order to be considered for designation under this section, an application for designation must be submitted by or on behalf of the customer.
- (1) To be designated as a Critical Care Residential Customer or Chronic Condition Residential Customer, the commission-approved application form must be submitted to the TDU by a physician, in accordance with provisions of this section.
  - (2) To be designated as a Critical Load Public Safety Customer or a Critical Load Industrial Customer, the customer must notify the TDU. To be eligible for the protections provided under this section, the customer must have a determination of eligibility pending with or approved by the TDU. Eligibility shall be determined through a collaborative process among the customer, REP, and TDU, but in the event that the customer, REP and TDU are unable to agree on the designation, the TDU has the authority to make or decline to make the designation.
- (c) **Benefits for Critical Load Public Safety Customers, Critical Load Industrial Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers.**
- (1) A Critical Load Public Safety Customer or a Critical Load Industrial Customer qualifies for notifications of interruptions or suspensions of service as provided in Sections 4.2.5, 5.2.5, and 5.3.7.1 of the TDU's tariff for retail delivery service.
  - (2) A Critical Care Residential Customer or Chronic Condition Residential Customer qualifies for notification of interruptions or suspensions of service, as provided in Sections 4.2.5, 5.2.5, and 5.3.7.1, and for Critical Care Residential Customers protections against suspension or disconnection, as provided in Section 5.3.7.4(1)(D) and (E), of the TDU's tariff for retail delivery service.
  - (3) A Critical Care Residential Customer or Chronic Condition Residential Customer is also eligible for certain protections as described in §25.483 (relating to Disconnection of Service).
  - (4) Designation as a Critical Load Customer, Critical Care Residential Customer, or Chronic Condition Residential Customer does not guarantee the uninterrupted supply of electricity.

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**(d) Notice to customers concerning Critical Care Residential Customer and Chronic Condition Residential Customer status.**

- (1) A REP shall notify each residential applicant for service of the right to apply for Critical Care Residential Customer or Chronic Condition Residential Customer designation. This notice to an applicant for residential service shall be included in the Your Rights as a Customer document.
- (2) All REPs that serve residential customers shall provide information about Critical Care Residential Customer and Chronic Condition Residential Customer designations to each residential customer two times a year.
- (3) Upon a customer's request, the REP shall provide to the customer the application form for Critical Care Residential Customer and Chronic Condition Residential Customer designation.

**(e) Procedure for obtaining Critical Care Residential Customer or Chronic Condition Residential Customer designation.**

- (1) The commission-approved application form shall instruct the customer to have the physician submit the application form by facsimile or other electronic means to the TDU. If the physician submits the form to the REP, the REP shall forward it to the TDU electronically no later than two business days from receipt of the form. The application form shall include a telephone number for reaching a person at the TDU who is capable of responding to questions from a physician or customer about the form during regular business hours.
- (2) After the TDU receives the form, it shall evaluate the form for completeness. If the form is incomplete, no later than two business days after receiving the form, the TDU shall mail the form to the customer and explain in writing what information is needed to complete the form.
- (3) If the TDU has returned the form as incomplete or has not finished processing the form within two business days from receipt of the form, the customer shall be designated as a Critical Care Residential Customer or Chronic Condition Residential Customer on a temporary basis pending final designation by the TDU. The temporary designation shall be based on the designation selected by the physician on the form if such designation was included; otherwise, the temporary designation shall be as a Critical Care Residential Customer. The TDU shall notify the customer's REP of such temporary designation using a standard market transaction. If the form is returned to the customer as incomplete, the temporary designation shall remain in effect for 14 days, after which the temporary designation shall expire and the application process must start over.
- (4) Reasons that a TDU shall consider a form incomplete for an application for Critical Care Residential Customer or Chronic Condition Residential Customer designation include the omission of the name of the person for whom the protection is sought, contact information, physician signature, the designation as a Critical Care Residential Customer or Chronic Condition Residential Customer, and medical board license number of the customer's physician. Any additional mandatory information required for completeness shall be clearly identified on the commission-approved application form. A customer may, but it is not required to, include an emergency (secondary) contact in the application.
- (5) The TDU shall not challenge the physician's determination of the customer's status, but shall apply the physician's designation of the customer as a Critical Care Residential Customer or Chronic Condition Residential Customer consistent with the information provided on the form and the definitions in this section. The TDU may verify the physician's identity and signature and may deny an application for designation, if it determines that the identity or signature of the physician is not authentic.
- (6) The TDU shall notify the customer's REP using a standard market transaction and the customer of the final status of the application process, including whether the customer has been designated for Critical Care Residential Customer or Chronic Condition Residential Customer status. The TDU shall also notify the customer of the date a designation, if any, will expire, and whether the customer will receive a renewal notice. The TDU shall provide the emergency

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contact information (if applicable) to the REP using a standard market transaction. If the customer switches to a different REP, the TDU shall provide the new REP with information on the customer's status and the emergency contact information (if applicable) using a standard market transaction.

- (7) At the same time the TDU notifies the customer the final status of the customer's application, the TDU shall inform the customer of the customer's right to file a complaint with the commission pursuant to §22.242 of this title (relating to Complaints).
  - (8) The TDU shall notify Critical Care Residential Customers and Chronic Condition Residential Customers of the expiration of their designation in accordance with this subsection. The TDU shall notify the customer's REP using a standard market transaction when a customer is no longer designated as a Critical Care Residential Customer or a Chronic Condition Residential Customer.
  - (9) The TDU shall mail a renewal notice to a Chronic Condition Residential Customer whose designation was for a period longer than 90 days or a Critical Care Residential Customer, at least 45 days prior to the expiration date of the customer's designation. The renewal notice shall also be mailed to the emergency contact included on the commission-approved application form (if applicable). The renewal notice shall include the application form and an explanation of how to reapply for Critical Care Residential Customer or Chronic Condition Residential Customer designation. The renewal notice shall inform the customer that the current designation will expire unless the application form is returned by the expiration date of the existing designation.
- (f) **Effect of Critical Care Residential Customer or Chronic Condition Residential Customer status on payment obligations.** A Critical Care Residential Customer or Chronic Condition Residential Customer designation pursuant to this section does not relieve a customer of the obligation to pay the REP for services provided, and a customer's service may be disconnected pursuant to §25.483 of this title.
- (g) **TX SET changes.** In the first TX SET release after the effective date of this section, market transactions shall be included to address the requirements of this section.
- (h) **Effective date.** The effective date of this section is January 1, 2011.
- (i) **TDU annual report.** A TDU shall report to the commission by March 1 of each year beginning in 2012, the number of customers for each type of customer defined in subsection (a) of this section as of December 31 of the previous calendar year. The TDU report shall also include for the previous calendar year, for each type of customer defined in subsection (a) of this section, the number of applications that were rejected as a result of incomplete forms, the number of requests from REPs for disconnection, and the number of disconnections and reconnections completed. An interim report shall be filed by the TDU on April 1, 2011 for the time period from January 1, 2011 through March 1, 2011.