

**PUBLIC UTILITY COMMISSION OF TEXAS STANDARD GUARANTY
AGREEMENT FOR RETAIL ELECTRIC PROVIDERS**

WHEREAS, [insert name of retail electric provider or retail electric provider applicant] (“REP”) has filed with the Public Utility Commission of Texas (“Commission”) an application for retail electric provider certification or an application to amend retail electric provider certificate no. [insert number, if applicable] pursuant to Commission Rule 25.107.

WHEREAS, REP may satisfy the capital requirements for retail electric provider certification by relying upon on a guarantor that meets one of the capital requirements of Commission Rule 25.107(f)(1)(A).

WHEREAS, [insert name of guarantor] (“Guarantor”) is an affiliate of REP as defined by Commission Rule 25.107(b)(1) and meets one of the capital requirements of Commission Rule 25.107(f)(1)(A).

NOW THEREFORE, in consideration of and in order to induce the Commission to grant retail electric provider certification to or to amend the existing certification of REP, Guarantor hereby covenants and agrees to the following provisions:

- 1) **Guaranty.** Guarantor hereby unconditionally and irrevocably guarantees the full and faithful payment to the Commission of all obligations of REP (collectively, the “Obligations”) that are required by the Commission’s rules and orders including, but not limited to, refund of customer deposits and residential advance payments, payment for services provided by the independent organization related to serving REP’s customers, payment for services provided by a TDU, and payment of administrative penalties, provided that such Obligations shall not include special, exemplary, equitable, indirect, punitive, or tort damages.
- 2) **Termination.** This guaranty agreement shall be a continuing guaranty of payment and not of collection, and shall terminate and be of no further force and effect in the event that (a) REP meets the requirements of Commission Rule 25.107(f)(1) through other means or (b) an application to relinquish retail electric provider certificate no. [insert number] is approved by the commission through an order that has become final.
- 3) **Governing Law.** This guaranty agreement shall be governed by, and construed in accordance with, the laws of the state of Texas, without regard to conflicts of laws principles.
- 4) **Payment Demand.** If REP fails to pay or refuses to pay any of the Obligations due and payable under the Commission’s rules, the Commission may make one or several demands for payment upon Guarantor for all or part of the Obligations (hereafter, “Payment Demand”), and Guarantor shall pay or cause REP to pay such Payment

Demand within five working days. The Payment Demand shall be in writing and shall specify the amount REP has failed to pay and include a specific statement that the Commission is calling upon Guarantor to pay under this guaranty agreement. The Payment Demand shall identify the bank, bank routing number, and bank account number to which the funds should be wire transferred, and any other information that may be necessary to effect the wire transfer. Failure of the Commission to make a Payment Demand shall neither relieve nor discharge Guarantor in any respect of its obligation under this guaranty agreement to pay the Obligations promptly when due.

- 5) **Representations and Warranties.** Guarantor represents and warrants that:
- a) it is a [insert legal structure] duly organized and validly existing under the laws of [insert name of state or country where Guarantor is organized] and has the power and authority to execute, deliver, and carry out the terms and provisions of this guaranty agreement;
 - b) no authorization, approval, consent, or order of, or registration or filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution and delivery of this guaranty agreement; and,
 - c) this guaranty agreement, when executed and delivered, will constitute a valid and legally binding agreement of Guarantor, except as the enforceability of this guaranty agreement may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditor's rights generally and by general principles of equity.
- 6) **Setoffs and Counterclaims.** Guarantor reserves to itself all rights, setoffs, counterclaims, and other defenses to which REP may be entitled other than defenses arising from the bankruptcy or insolvency of REP.
- 7) **Subrogation.** Upon the payment of the Obligations, Guarantor shall be subrogated to the rights of the Commission with respect to any and all such payments made by Guarantor hereunder.
- 8) **Waivers.** Guarantor hereby waives promptness, diligence, presentment, demand of payment, protest, order, and notice (except as set forth herein) in connection with Guarantor's obligations under this guaranty agreement. Guarantor also hereby waives any requirement that the Commission exhaust any right to take any action against REP or any other person prior to or contemporaneously with proceeding to exercise any right against Guarantor under this guaranty agreement.
- 9) **Successors and Assignment.** This guaranty agreement shall bind Guarantor and its successors. REP shall apply to amend its certification pursuant to Commission Rule 25.107(i)(2) if this guaranty agreement is or will be held by a successor. This guaranty agreement shall not be assigned.

10) **Entire Agreement.** This guaranty agreement constitutes the entire agreement between Guarantor and the Commission, and supersedes and terminates any prior agreements, amendments, and understandings relating to the matters set forth herein.

11) **Notice.** Any Payment Demand, notice, request, instruction, correspondence, or other document to be given hereunder by any party to another (hereafter, "Notice") shall be in writing and shall be delivered personally or by overnight courier to:

Public Utility Commission of Texas
1701 N. Congress Ave.
Austin, TX 78711

Notice shall be effective upon actual receipt.

IN WITNESS WHEREOF, Guarantor has caused this guaranty agreement to be executed on the date set forth below in its corporate name and by its authorized representative.

(name of Guarantor)

By _____

Title _____

Date _____