

PROJECT NO. 31416

EVALUATION OF DEFAULT SERVICE	§	PUBLIC UTILITY COMMISSION
FOR RESIDENTIAL CUSTOMERS AND	§	
REVIEW OF RULES RELATING TO	§	OF TEXAS
THE PRICE OF BEAT AND PROVIDER	§	
OF LAST RESORT	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.43
AS APPROVED AT THE FEBRUARY 23, 2006, OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §25.43, relating to Provider of Last Resort (POLR). The proposed amendment will modify the structure and the mechanics of Provider of Last Resort service to take into account changed circumstances in the competitive market, the end of the Price to Beat period on January 1, 2007, and to reflect the experience gained from prior Provider of Last Resort service. This rule is a competition rule subject to judicial review as specified in PURA §39.001(e). Project Number 31416 is assigned to this proceeding.

Matthew Troxle, Director of the Retail Market Oversight Section, Electric Industry Oversight Division, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Troxle has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the amended section will be that electricity prices for customers receiving service from the Provider of Last Resort will better reflect the cost to provide the service. There will be no adverse economic effect on small

businesses or micro-businesses as a result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Mr. Troxle has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Friday, April 7, 2006, at 8:00 a.m. The request for a public hearing must be received within 21 days after publication.

Comments on the proposed amendment may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 21 days after publication. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted within 31 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All

comments should refer to Project Number 31416 - POLR. The commission will also accept comments on the following questions:

1. In regard to the proposed POLR rate, what is the appropriate “MCPE multiplier” to be applied as the “X%” in the POLR rate formula?
2. In regard to the proposed POLR rate, what are the appropriate monthly customer charges or demand charges?
3. In regard to the proposed POLR rate, how far in advance of billing does the rate need to be calculated? Does a customer who is to be transitioned to POLR need to know the rate at that time or is it appropriate for the rate to be calculated after service is rendered, but before a bill is issued?
4. In regard to the small non-residential greater than or equal to 50 kW customer class, what are the appropriate customer protection rules to be waived?
5. In regard to the eligibility criteria to serve as a POLR, are the proposed 1% threshold values too low (or too high)?
6. In regard to the eligibility criteria to serve as a POLR, what should be the minimum financial qualifications that a REP must demonstrate to the Commission?
7. Should customers who are served by a POLR provider because their chosen REP is no longer serving them be able to request an out of cycle meter read without being charged the applicable transmission and distribution utility discretionary charge for the service? If so, what is the appropriate cost recovery methodology that should be used to compensate the transmission and distribution utility for performing the service?

8. Is the selection methodology appropriate for volunteer POLR REPs and, if not, how should it be modified to encourage REP participation?

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2005) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross Reference to Statutes: Public Utility Regulatory Act §39.202.

§25.43. Provider of Last Resort (POLR).

(a) **Purpose.** The purpose of this section is to ensure that, as mandated by the Public Utility Regulatory Act (PURA) §39.106:

(1) A basic, standard retail service package will be offered by a POLR or multiple POLRs at a fixed, non-discountable rate to any requesting customer in all of the Texas transmission and distribution utilities' (TDU's) service areas that are open to competition; and

(2) (No change.)

(b) **Application; termination of service for non-payment.**

(1) (No change.)

(2) Until the expiration of the price to beat period, POLR service for a residential or small non-residential customer of a competitive REP whose electric service is terminated for non-payment under the provisions of §25.482 of this title (relating to Termination of Contract) shall be provided by the -affiliated REP for that POLR area. In the case of the territory encompassed by Sharyland Utilities, LP, the affiliated REP shall be deemed to be First Choice Power, Inc., ~~the entity providing default service in that area.~~ The provisions of this section do not apply to any affiliated REP serving non-paying residential and small non-residential customers of competitive REPs except as otherwise specifically stated herein. Upon the expiration of the price to beat period, a customer whose electric service is terminated for non-payment under the provisions of §25.482 of this title shall be

provided by the volunteer POLR REPs first and the non-volunteering POLR providers second.

~~(3) As of September 24, 2002, a non-paying residential or small non-residential customer of an affiliated REP shall not be transferred to the POLR selected under this section.~~

~~(4) A large non-residential customer whose service is terminated for non-payment shall not be transferred to the POLR after September 24, 2002. Notwithstanding the foregoing, a non-paying large non-residential customer may be transferred to the POLR if that customer is receiving service under a contract entered into prior to September 24, 2002, the original term of which has not expired at the time transfer to POLR is requested, and if the contract makes no provision for waiver of the customer's right to be transferred to the POLR for non-payment. POLR service is intended to provide continuity of service. The POLR rate must reflect the inherent level of risk associated with POLR service. POLR service is envisioned as a temporary service and the POLR rate is not intended to be a competitive offering, but a cost and risk based offering.~~

(c) **Definitions.** The following words and terms when used in this section shall have the following meaning, unless the context indicates otherwise:

(1)-(4) (No change.)

~~(5) **Load ratio**—The amount of load for a particular customer class served by a REP on a nationwide basis in comparison to the amount of load for that class in areas in Texas where customer choice is in effect. This determination is to be made by~~

~~dividing the REP's nationwide total megawatt-hour sales to the customer class during the prior year by the total megawatt-hour sales to such class in areas in Texas where customer choice was in effect during any portion of the prior year.~~

~~(5)(6)~~ **Non-discountable rate** — A rate that does not allow for any deviation from the price offered to all customers within a class, except as provided in §25.454 of this title (relating to Rate Reduction Program).

~~(6)(7)~~ **POLR area** — The service area of a TDU in an area where customer choice is in effect, except that the POLR area for AEP-Texas Central Central Power and Light Company shall be deemed to include the area served by Sharyland Utilities, L.P.

~~(7)(8)~~ **Provider of last resort (POLR)** — A REP certified in Texas that has been designated by the commission to provide a basic, standard retail service package in accordance with this section to customers that are not being served by a REP for reasons other than non-payment. There may be multiple POLR providers in a TDU service area.

~~(8)(9)~~ **Residential customer** — Retail customers classified as residential by the applicable transmission and distribution utility tariff or, in the absence of classification under a residential rate class, those retail customers that are primarily end users consuming electricity for personal, family, or household purposes and who are not resellers of electricity. ~~A residential customer as defined in §25.41 of this title (relating to the Price to Beat).~~

~~(9)(10)~~ **Small non-residential customer less than 50 kilowatts (kW)** — A non-residential retail customer having a peak demand of less than 50 kW. ~~A small commercial customer as defined in §25.41 of this title.~~

(10) Small non-residential customer greater than or equal to 50 kW — A non-residential retail customer having a peak demand of 50 kW, but less than 1,000 kW.

(d) **POLR service.**

(1) For the purpose of POLR service, there will be four ~~three~~ classes of customers: residential, small non-residential less than 50 kW, small non-residential greater than or equal to 50 kW, and large non-residential.

(2) The ~~POLRs~~ POLR may be designated to serve any or all of the four ~~three~~ customer classes in a POLR area. Within the customer class it is designated to serve, the ~~POLRs~~ POLR shall provide service to the following customers:

(A)-(B) (No change.)

(3) The ~~POLRs~~ POLR shall offer a basic, standard retail service package, which will be limited to:

(A)-(E) (No change.)

(4) The ~~POLRs~~ POLR shall, in accordance with §25.108 of this title (relating to Financial Standards for Retail Electric Providers Regarding the Billing and Collection of Transition Charges), provide billing and collection duties for REPs who have defaulted on payments to the servicer of transition bonds or to TDUs.

(e) **Standards of service.**

(1) (No change.)

(2) A POLR shall serve any customer according to the Standard Terms of Service in subsection (f)(1) of this section for any customer's respective customer class as

described in subsection (d)(2) of this section, except that volunteer POLR REPs may charge a rate less than the POLR rate.

~~(3)(2)~~ A POLR shall abide by the applicable customer protection rules as provided for under Subchapter R of this chapter. In addition, the POLR shall be held to the following general standards:

(A) The ~~POLRs~~~~POLR~~ shall inform any customer transferred to it, that the POLR it is now providing service to the customer and shall disclose all charges for which the customer will be responsible;

(B) The ~~non-volunteer POLRs~~~~POLR~~ shall provide a commission-maintained list of certified REPs to every any customer ~~who inquires about selecting a provider; and,~~

(C) The ~~POLRs~~~~POLR~~ may not require that a customer sign up for a minimum term as a condition of service, except that if the POLR offers a level or average payment plan in accordance with Subchapter R of this chapter, a residential or small non-residential customer who elects to receive ~~receive~~ service under such plan may be required to sign up for a minimum term of no more than six months.

(D) The POLRs shall inform customers that the customer may accelerate a switch to another REP by requesting a “special or out-of-cycle meter read” and paying the applicable transmission and distribution utility charge for the meter read.

(f) **Customer information.**

(1) ~~Forms.~~—The standard terms of service prescribed forms—in ~~subparagraph~~subparagraph (A)-(C) of this paragraph —are effective for all POLR service ~~rendered after December 31, 2002.~~ These forms may ~~only~~ be changed through the rulemaking process and are available in the commission's Central Records Division and on the commission's website at www.puc.state.tx.us.

(A) Standard Terms of Service ~~Agreement~~, Provider of Last Resort (POLR)
Residential Service:

[Figure: 16 TAC §25.43\(f\)\(1\)\(A\)](#)

(B) Standard Terms of Service ~~Agreement~~, Provider of Last Resort (POLR)
Small Non-Residential Service:

[Figure: 16 TAC §25.43\(f\)\(1\)\(B\)](#)

(C) Standard Terms of Service ~~Agreement~~, Provider of Last Resort (POLR)
Large Non-Residential Service:

[Figure: 16 TAC §25.43\(f\)\(1\)\(C\)](#)

(2) ~~Provision of information to customers.~~—The ~~POLRs~~POLR shall provide each new customer the standard terms of service ~~agreement~~—applicable to the specific customer. —Such standard terms of service ~~agreements~~—shall be updated as required under §25.475(d) of this title (relating to Information Disclosures to Residential and Small Commercial Customers.)

(g) **General description of POLR selection process.**

(1) All REPs shall provide information to the commission in accordance with subsection (h)(1) of this section. Based on this information, the commission's

~~designated representative POLR selected for areas where customer choice is in effect. The commission~~ shall designate ~~certified~~ REPs that are eligible to serve as POLRs in areas of the State in which customer choice is in effect, except that the commission shall not designate ~~POLRs~~ the POLR in the service areas of MOUs or electric cooperatives unless an electric cooperative has delegated its POLR designation authority to the commission in accordance with subsection (p) of this section.

- (2) **Process.**—The commission will select REPs that will provide solicit bids for POLR service for two-year terms as specified in paragraph (3) of this subsection. ~~The Bids shall be solicited from REPs that are eligible to provide POLR service under the provisions of subsection (h) of this section. The process for evaluating such bids is specified in subsection (i) of this section and the basis upon which bids shall be compared is specified in subsection (k)(3) of this section. If no eligible bids for a POLR customer class in a POLR area are submitted, the POLR shall be selected by lottery under the procedures set forth in subsection (j) of this section and the POLR rate shall be~~ established under the provisions of subsection (k) of this section.
- (3) **Term.**—POLRs shall serve two-year terms beginning in January of each odd-numbered year. The initial term for POLR service in areas of the state where retail choice is not in effect as of the effective date of the rule shall be set at the time POLRs are initially selected in such areas.

(h) **REP eligibility to serve as POLR.** In each even-numbered year, the commission shall determine the eligibility of certified REPs to serve as a POLR for the terms scheduled to commence in January of the next year.

(1) ~~All REPs shall **Information requirements.** The commission may require a REP and its affiliates to~~ provide information to the commission necessary to establish ~~their that REP's~~ eligibility to serve as POLR. ~~All REPs shall file, by July 10th, of each even numbered year, by service area, information on the classes of customers they provide service to, and the number of customers they serve. They shall also provide information on their capabilities to provide service to additional customers, their financial condition, and whether they are interested in providing POLR service as a volunteer POLR REP, and, if so, the customer classes and areas where they are interested in providing the service.~~ Specific information received from a REP under this subsection ~~that is responsive to such a request by the commission~~ shall be treated confidentially if it is submitted to the commission in accordance with the provisions of §22.71(d) of this title (relating to Filing of Pleadings, Documents and Other Materials). However, the commission's determination regarding eligibility of a REP to serve as POLR under the provisions of this section shall not be considered confidential information.

(2) ~~Eligibility to be designated as a POLR is specific to POLR area and customer class. Criteria. During the term of the price to beat for a particular customer class, an affiliated REP is ineligible to serve as POLR for that class in the POLR area defined by the boundaries of its affiliated TDU, unless the affiliated REP submits a bid to provide POLR service in the POLR area defined by the boundaries~~

~~of its affiliated TDU at the price to beat.~~ A REP is ~~also~~ ineligible to provide POLR service to a particular customer class in a POLR area if:

- (A) A proceeding to revoke or suspend the REP's certificate is pending at the commission, ~~the~~ ~~or that~~ REP's certificate has been suspended or revoked by the commission, or the REP's certificate is deemed suspended pursuant to §25.107(i) of this title (relating to Certification of REPs);
- (B) The REP's total meters served for the particular class is less than 1.0% of the total meters in the TDU service area for that customer class~~The REP's load ratio for the particular class is less than 1.0%;~~
- (C) The REP total customers served for the particular class is less than 1.0% of the total customers in the POLR area for that customer class;
- ~~(D)(E)~~ The commission does not reasonably expect the ~~REP~~ to ~~be~~ able to meet the criteria set forth in subparagraph (B) of this paragraph during the entirety of the POLR term;
- ~~(E)(D)~~ On the ~~expected~~ date of the commencement of the POLR term~~bid~~ ~~submittal~~, the REP or its predecessor, including a REP that has assumed the responsibilities of another REP, will not have served customers in Texas for at least 18 months;
- ~~(F)(E)~~ The REP is not certificated to serve or does not serve the applicable customer class, or does not have an agreement with the service area TDU~~in~~ ~~Texas~~;
- ~~(G)(F)~~ The REP's customers are limited to its own affiliates; ~~or~~

~~(H)(G) The REP is certified only to provide POLR service for an affiliate. A REP that files an affidavit stating that it does not serve customers subject to the customer protection rules, and should therefore be considered ineligible to provide POLR service, may opt-out of eligibility for the small non-residential less than 50 kW customer class;~~

~~(I) A REP files an affidavit stating that it does not serve small non-residential customers in either class, except for the low-usage sites of the REP's large non-residential customers, or commonly owned or franchised affiliates of the REP's large non-residential customers, and should therefore be considered ineligible to provide POLR service, may opt-out of eligibility for either of the small non-residential customer classes; or,~~

~~(J) The REP does not meet certain minimum financial qualifications as determined by the commission.~~

- (3) ~~Publication of notice of eligibility.~~ For each POLR term scheduled to commence in January of the next year, ~~except for the year 2003,~~ the commission shall publish the names of all of the REPs eligible to provide POLR service for each customer class in each POLR area. ~~A REP may challenge its eligibility determination within five business days of the notice of eligibility only by submitting to commission staff additional documentation showing that the data upon which its initial eligibility determination was made is incorrect and that the errors resulted in an incorrect eligibility status. commission staff shall verify the additional documentation and, if accurate, recalculate the REP's eligibility. Commission staff will notify the REP of any change in eligibility status within 10 business days of the receipt of the~~

additional documentation. A REP may then appeal to the commission through a contested case if the REP does not agree with the staff determination of eligibility. The contested status will not delay the volunteer POLR list or the selection of the POLR providers. The notice shall be published in the Texas Register prior to or contemporaneously with publication of the invitation for bids. For 2003, only affiliated REPs shall be considered eligible REPs.

(4) A REP that is serving as a POLR provider in accordance with this section shall submit reports not later than March 1 and September 1 of each year providing the information specified in paragraph (2) of this subsection.

(i) **Volunteer POLR REP list.** Based on the information provided in accordance with this subsection and subsection (h) of this section, the commission shall post on its webpage the REPs that are willing to serve as POLR on a volunteer basis. REPs may submit an indication of their willingness to voluntarily serve as POLR no earlier than June 1 and no later than July 31 of each even-numbered year. The order in which customers shall be transferred to the volunteer POLR REPs shall be inverse order of market share as it exists when the volunteer POLR REP list is created, meaning the REP with the smallest market share at the time the volunteer POLR REP list is created, shall be first on the volunteer POLR REP list. ~~**Bid process.** Initially, a competitive bid process will be used to select the POLR for each customer class in each designated POLR area.~~

(1) A volunteering POLR REP shall provide to the commission the name of the REP, the appropriate contact person with current contact information, which customer classes the REP is willing to serve within each POLR area, and the estimated

~~amount of load the REP is willing to serve by customer class and POLR area. Invitation to bid. Before the expiration of a term of POLR service in a POLR area, the commission shall issue an invitation for bids for POLR service for each customer class in the POLR area. Notice of the bid invitation, any submission requirements, the submission deadline, and the project number assigned to the bid process for that POLR area shall be published in the Texas Register. A separate project number shall be designated for each POLR area.~~

(2) ~~Bidder qualifications.~~—A REP that has met the eligibility requirements of subsection (h) of this section shall be eligible for the volunteer POLR REP ~~list~~considered a qualified bidder.

(3) A volunteer POLR REP shall not charge its POLR customers a rate higher than the POLR rate for POLR service. A volunteer REP may market to its POLR customers rates lower than the POLR rate. The volunteer POLR REP, in any marketing to the POLR customer, shall make it clear that the customer has the right to switch to a different REP or take service from the volunteer POLR REP under a rate other than the rate set out in the standard terms of service, if the POLR offers such a rate. A customer may agree to a long-term contract with the POLR REP, but the POLR REP shall not represent to the customer that agreeing to a long-term contract is the only option to avoid the POLR rate. ~~Submission of bids.~~

~~(A) Separate bids required. A bidder may submit a bid to serve any of the three customer classes in a POLR area. Bids for each customer class in a POLR area shall be submitted separately. A REP may submit a separate bid for~~

~~POLR service for each customer class and POLR area for which it seeks to provide service.~~

~~(B) Filing and content. Each bid shall be filed in the appropriate project number on or before the date and time specified in the bid invitation; identify only one POLR area; specify only one customer class; include a bid in conformance with the rate structure for the class; and not contain any information that will be considered, after the closing date for submission of all bids, to be confidential or proprietary by the filing party.~~

~~(C) Designation of preference. A REP whose load ratio for a particular class is less than 5.0% that submits more than one bid for POLR service for that class may include in its bid a statement indicating its order of preference in POLR areas.~~

- (4) Upon the transition of customers to the POLRs, ERCOT shall use the volunteer REP list to assign customers to the volunteer POLR REPs in a non-discriminatory fashion, before assigning customers to the non-volunteering POLR providers. Customers shall be assigned to the volunteer POLR REPs in the order that they appear on the volunteer POLR list, and the volunteer POLR REP shall not be assigned more load than it has indicated that it is willing to serve. A sequential electronic service identifier (ESI ID) methodology or other non-discriminatory methodology shall be employed to ensure non-discriminatory assignment of customers to the volunteer POLR REPs.~~Filing under seal. Prior to the closing date specified in the bid invitation, bids must be filed under seal for the limited purpose of ensuring the confidentiality of the bids submitted.~~

(5) A volunteer POLR REP may file a request to be removed from the volunteer POLR REP list or to modify the estimated amount of load it is willing to serve at any time, and such a request shall be effective 30 days after the request is filed with the commission.~~Bid opening and public comment.~~

~~(A) All bids filed under seal shall be opened and filed publicly by commission staff in the applicable project number by 5:00 p.m. on the third business day following the submission date identified in the bid invitation.~~

~~(B) If the bid opening is cancelled, the bids filed under seal will be returned unopened to the bidders.~~

~~(C) Interested persons may submit comments on bids in the applicable project up to the 10th calendar day after the bid submission deadline specified in the bid invitation. Interested persons may submit reply comments on bids up to the 15th calendar day after the submission deadline specified in the invitation. All comments and reply comments shall be filed in the applicable project.~~

~~(6) Evaluation of bids.~~

~~(A) Bids that have been rejected pursuant to subparagraph (B) of this paragraph shall not be evaluated. The bids received for each customer class in each POLR area shall be evaluated on the basis of price in accordance with the provisions of subsection (k)(3) of this section. If two or more bidders bid the same lowest price, the lowest bidder shall be determined by lottery in accordance with the provisions of subsection (j) of this section, with the pool of lottery candidates limited to the bidders~~

~~submitting tie bids. If, with respect to a particular class of customers, a bidder described in paragraph (3)(C) of this subsection submits the lowest bid for that class of customers in two or more POLR areas, staff shall determine that the bidder submitted the lowest price in the POLR area according to the preference statement submitted by the bidder with its bids. If the bidder did not state a preference or the preferences stated are irreconcilable, the bidder shall be deemed to prefer to serve in the POLR area to which the lowest project number has been assigned.~~

~~(B) The commission shall reject a bid for any of the following reasons:~~

- ~~(i) The bidder is not qualified.~~
- ~~(ii) The bid was received by the commission after the date and time specified in the bid invitation.~~
- ~~(iii) The bid did not conform to a requirement described in the bid invitation.~~
- ~~(iv) The rate structure submitted in the bid deviated from the rate structure applicable to the customer class or the bid price exceeds the maximum level specified in subsection (k)(3) of this section.~~
- ~~(v) The bidder asserts to the commission that the bid contains information considered, after the closing date for submission of all bids, to be confidential or proprietary.~~
- ~~(vi) In the event a bidder described in paragraph (3)(C) of this subsection submits two or more bids for the same customer class in different POLR areas then all bids from that bidder for that customer class, other than the preferred bid, shall be rejected.~~

~~(7) Report to the commission. Staff shall report on the bid process for each POLR area to the commission. The report shall identify the POLR customer classes and POLR areas for which no bids were submitted. The report shall also identify all rejected bids and state the reason why each bid was rejected, describe conforming bids, and summarize the comments and reply comments received. For each customer class in each POLR area, the report shall include a recommendation by staff that POLR service be awarded to the bidder that offered the lowest price in a conforming bid or that the POLR for a given customer class and POLR area should be selected by lottery because no eligible bids were received.~~

~~(8) Commission action. For a particular POLR class and POLR area, the commission shall either award a bid consistent with the provisions of this section or reject all bids and direct that the POLR for that customer class and POLR area be determined by lottery.~~

(j) **Non-volunteering POLR providers**~~Lottery.~~ The provisions of this subsection shall govern the manner in which ~~the non-volunteering POLRs a lottery to select a POLR~~ for a given POLR area and customer class ~~are selected~~~~conducted~~.

(1) ~~The REPs eligible to serve as POLRs shall be as determined based on the information provided by REPs in accordance with subsection (h) of this section.~~~~Lottery candidacy.~~ The commission shall designate a pool of lottery candidates for each customer class in each POLR service area. Every REP eligible to serve as a POLR is a candidate for the lottery unless:

~~(A) By virtue of having successfully bid for POLR service, the REP will be serving as POLR for that customer class in two or more service areas in January of the next year; or~~

~~(B) The REP's load ratio for the customer class is less than 5.0% and the REP will be serving as POLR for the customer class in another area during the upcoming POLR term~~

- (2) In each POLR area, for each POLR customer class there shall be five non-volunteering POLR providers. The non-volunteering POLR providers shall be the five eligible REPs that have the greatest market share of customer load by customer class within the POLR area. The commission shall designate the non-volunteering POLR providers by October of the year preceding the POLR term, based upon the data the commission has at the time of the determination.~~Elimination from lottery pool. A REP otherwise eligible for the lottery pool that will be serving a particular customer class as POLR during the upcoming term in the POLR area defined by the boundaries of CenterPoint Energy Houston Electric shall be eliminated from the lottery pool for that class for the POLR area defined by the boundaries of the Oncor Electric Delivery Company. Similarly, a REP otherwise eligible for the lottery pool that will be serving a particular customer class as POLR during the upcoming term in the POLR area defined by the boundaries of the Oncor Electric Delivery Company shall be eliminated from the lottery pool for that class for the POLR area defined by the boundaries of CenterPoint Energy Houston Electric.~~

- (3) In the event of a transition of customers to POLR service, customers shall be allocated to the non-volunteering POLR providers only after the volunteer POLR REP list has been exhausted. The customers to be transitioned to the non-volunteering POLR providers shall be allocated to the non-volunteering POLR providers in a non-discriminatory fashion, in accordance with the percentage of market share of customer load, as determined in paragraph (2) of this subsection, by POLR area and customer class. If a REP that is designated as a non-volunteering POLR provider also volunteers as a volunteer POLR REP, the amount of load allocated to the REP on a non-volunteer basis shall be reduced by the amount of load served by the REP on a volunteer POLR REP basis. A sequential ESI ID methodology or other non-discriminatory methodology shall be employed to ensure non-discriminatory assignment of customers to the non-volunteering POLR providers.~~Drawing. At a time and date noticed by the commission in the Texas Register, a separate drawing will be held for each customer class in each POLR area for which a POLR was not selected by bid. The drawings shall be held in the order of the project numbers assigned to the POLR service areas and interested persons may attend. The names of the lottery candidates shall be written on separate pieces of paper of identical size and color. A staff member shall place the names of the lottery candidates in a receptacle. A commission representative shall draw a piece of paper from the receptacle. The REP whose name is written on the piece of paper shall serve as the POLR for that customer class in that POLR area at the rate specified in subsection (k)(4) of this section.~~

(k) **POLR rate.**

(1) The provisions of this paragraph establish the maximum POLR rate of volunteer POLRs and the POLR rate for non-volunteering POLRs.

(A) The POLR rate for the residential customer class shall be determined by the following formula:

$$\text{POLR rate (in cents/kWh)} = (X\% * \text{Zonal Average Monthly MCPE Shaped by ERCOT Load Profile} * \text{Customer's Metered Usage}) + (\text{Monthly Customer Charge or Demand charge}) + (\text{TDSP Charges})$$

Where the “Zonal Average Monthly MCPE shaped by ERCOT Load Profile” is a weighted average defined per Weather Zone and Congestion Zone, and is reported on the ERCOT website, as:

$$\sum_{\text{All Intervals}} \left(\frac{\text{15 Minute Interval Load Based on Appropriate Customer Class Profile}}{\text{Sum of a Month of Interval Load}} * \text{Corresponding 15 Minute Zonal MCPE} \right)$$

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(B) The POLR rate for the small non-residential customer classes shall be determined by the following formula:

$$\text{POLR rate (in cents/kWh)} = (X\% * \text{Zonal 30-Day Average MCPE Shaped by ERCOT Load Profile} * \text{Customer's Metered Usage}) + (\text{Monthly Customer Charge or Demand Charge}) + (\text{TDSP Charges})$$

Where the “Zonal 30-Day Average MCPE Shaped by ERCOT Load Profile” is a weighted average defined per Weather Zone and Congestion Zone, and is reported on the ERCOT website, as:

$$\frac{\sum_{\text{All Intervals}} \left(\frac{15 \text{ Minute Interval Load Based on Appropriate Customer Class Profile}}{\text{Sum of 30 days of Interval Load}} * \text{Corresponding 15 Minute Zonal MCPE} \right)}{10}$$

(C) The POLR rate for the large non-residential customer class shall be determined by the following formula:

POLR rate (in cents/kWh) = (X% * MCPE Shaped by ERCOT Load Profile for Time Customer was Served Shaped by ERCOT Load Profile * Customer’s Metered Usage) + (Monthly Customer Charge or Demand Charge) + (TDSP Charges)

Where the “MCPE Shaped by ERCOT Load Profile for Time Customer was Served Shaped by ERCOT Load Profile” is a weighted average defined per Weather Zone and Congestion Zone, and is reported on the ERCOT website, as:

$$\frac{\sum_{\text{All Intervals}} \left(\frac{15 \text{ Minute Interval Load Based on Appropriate Customer Class Profile}}{\text{Sum of Interval Load for Time Customer is on POLR}} * \text{Corresponding 15 Minute Zonal MCPE} \right)}{10}$$

~~**Components of POLR rate when service awarded by bid.** The provisions of this paragraph apply to the POLR rate when POLR service is awarded by bid. The~~

~~POLR rate for the residential and small non-residential customer classes shall be either the price to beat or a rate consisting of non-bypassable charges, a monthly customer charge that does not change during the term of the POLR, an energy charge, and, for small and large non-residential customers, a demand charge. For residential and small non-residential customers, the applicable standard price to beat rate shall be a floor on the POLR rate and the POLR rate may not fall below the PTB. For large non-residential customers, the POLR rate for large non-residential customers shall consist of non-bypassable charges, a monthly customer charge that does not change during the term of the POLR, an energy charge, and a demand charge.~~

- (2) If in response to a complaint or upon its own investigation, the commission determines that a POLR failed to charge the appropriate POLR rate, and as a result overcharged its customers, the POLR shall issue refunds to the specific customers who were overcharged. ~~Elements of a bid.~~

~~(A) Residential customer class. Each bid for POLR service for the residential customer class shall be either a bid to serve customers at the price to beat or a bid that includes:~~

~~(i) A monthly customer charge that shall not change during the POLR term and that customer charge may be zero dollars; and~~

~~(ii) An energy charge subject to adjustment under the provisions of subsection (1) of this section, expressed as cents per kilowatt hour (kWh). The energy charge may be differentiated into peak months (May through October) and off peak months (November through April).~~

~~(B) — Small non-residential customer class. — Each bid for POLR service for the small non-residential class shall be either a bid to serve customers at the price to beat or shall include the components for bids for the residential customer class as set forth in subparagraph (A) of this paragraph and a demand charge that may be zero dollars.~~

~~(C) — Large non-residential customer class. — Each bid for POLR service for the large non-residential customer class shall include:~~

~~(i) — A monthly customer charge that shall not change during the POLR term and that customer charge may be zero dollars;~~

~~(ii) — A demand charge that may be zero dollars; and~~

~~(iii) — The percent over the energy reference price specified by the commission that the bidder~~

~~will charge for energy. — For POLR areas in the Electric Reliability Council of Texas (ERCOT), the energy reference price shall be the market clearing price for energy (MCPE) determined on the basis of 15-minute intervals. — For POLR areas outside of ERCOT, the commission shall specify the energy reference price prior to the inception of retail customer choice.~~

~~(3) — Comparison and rejection of bids. — Bids for POLR service for residential and small non-residential service shall be compared on the basis of price as specified in this paragraph.~~

~~(A) — Residential customer class. — Bids for POLR service for residential customers shall be compared assuming monthly residential energy usage of~~

~~1000 kWh. If a bid for POLR service for this average usage level exceeds 125% of the applicable standard residential price to beat rate for that usage level at the time bids are submitted, the bid shall be rejected. For purposes of this rule, the standard residential price to beat rate for residential service in each POLR area shall refer to the following price to beat tariffs, as amended or replaced:~~

Service Area	Affiliated REP	Tariff
Oncor	TXU Energy Services	Rate R—Residential Service
Centerpoint	Reliant Energy Services	Rate PTB RS—Residential Service
AEP/CPL	Mutual Energy CPL	Rate SRS—Standard Residential Service
AEP/WT	Mutual Energy WTU	Rate RS—Residential Service
TNMP	First Choice Power	Residential Service

~~(B) Small non-residential class. Bids for POLR service for small non-residential customers shall be compared assuming a demand level of 35 kW and a monthly usage level of 12,500kWh. If the POLR rates bid for these average usage levels exceed 125% of the applicable standard commercial price to beat rate for both usage levels at the time bids are submitted, the bid shall be rejected. For purposes of this rule, standard commercial price~~

~~to beat rate shall refer to the following price to beat tariffs, as amended or replaced:~~

Service Area	Affiliated REP	Tariff
Oncor	TXU Energy Services	Rate GS General Service Secondary
Centerpoint	Reliant Energy Services	Rate PTB MGS Misc. General Service
AEP/CPL	Mutual Energy CPL	Rate LPS Lighting and Power Service
AEP/WTU	Mutual Energy WTU	Rate GS General Service
TNMP	First Choice Power	General Service

~~(C) Large non-residential class. Bids for POLR service for large non-residential customers shall be compared assuming a monthly demand of 2.5 MW and a monthly usage level of 1,000,000 kWh.~~

~~(4) POLR rates where POLR selected by lottery. This paragraph specifies the POLR rates that will be charged in a POLR area when the POLR is selected by lottery.~~

~~(A) Residential and small non-residential customer classes. The rate charged by a POLR selected by lottery shall be 125% of the applicable standard price to beat rate.~~

~~(B) Large non-residential class. The rate charged by a POLR selected by lottery shall be non-bypassable charges plus 150% of the applicable energy reference price as determined under paragraph (2)(C)(iii) of this subsection~~

~~and a monthly customer charge of \$2897. The minimum energy reference price shall be \$7.25 per megawatt hour.~~

~~(3)(5) Good cause adjustment to POLR rates.~~ On a showing of good cause, the commission may permit the POLR to adjust the POLR rate, if necessary to ensure that the rate is sufficient to allow the POLR to recover its costs of providing service. Notwithstanding any other commission rule to the contrary, POLR rates may be adjusted on an interim basis for good cause shown and after at least three days' notice and an opportunity for hearing on the request for interim relief. ~~Alternatively, the commission may rebid POLR service and relieve the current POLR of its POLR responsibilities. If POLR service is rebid, the process specified in subsection (i) of this section shall be followed except that eligible REPs shall be those REPs identified in the last list that was published, with the POLR that is being relieved of its duties deleted from the list. If the commission elects to rebid POLR service and the bid process is unsuccessful, the commission may reconsider adjusting the POLR rates or select an alternate POLR provider by lottery in accordance with the provisions of subsection (j) of this section.~~

- (1) **Prohibition on serving as POLR.** A POLR REP shall not be obligated to serve a customer within a customer class or a POLR area that the POLR REP is not designated as a volunteering POLR REP or a non-volunteering POLR provider. If a POLR REP challenges a customer assignment of ERCOT, and the discrepancy cannot be resolved, the TDU in the applicable POLR area will determine the customer class and if the customer resides within the TDU service area. The customer will then be served by the appropriate

~~POLR Adjustment to energy charge component of residential and small non-residential POLR rates.~~ The energy charge component of the POLR rate for the residential and small non-residential customer classes shall be adjusted as specified in this subsection if POLR service was awarded by bid.

~~(1) Energy charge component reevaluated monthly.~~ The energy charge component of the POLR rate for the residential and small non-residential customer classes shall be recalculated at the end of every month during the POLR term in accordance with the provisions of paragraph (2) of this subsection. If the recalculated energy charge varies by more than 5.0% from the time the energy charge was bid or last adjusted, then the energy charge of the POLR rate for the following month shall be equal to the recalculated energy charge. If the recalculated energy charge does not vary by more than 5.0% from the time the energy charge was bid or last adjusted, then the energy charge component shall not be adjusted for the following month. All adjustments shall take place during the first billing cycle of the billing month following the recalculation. Adjustments shall not occur during the customer's billing month. The POLR shall submit its monthly rate to the commission at least 15 days prior to the beginning of the applicable month.

~~(2) Energy charge calculation.~~

$E_N = E_E * G_N / G_E$	
Where:	
$E_N =$	recalculated energy charge
$E_E =$	existing energy charge

$G_N =$	the average of the closing one-month forward New York Mercantile Exchange (NYMEX) Henry Hub natural gas prices as reported in the <i>Wall Street Journal</i> for the last five trading days of the month ended 30 days prior to the effective date of the recalculated energy charge.
$G_E =$	the average of the closing one-month forward NYMEX Henry Hub natural gas prices as reported in the <i>Wall Street Journal</i> for the last five business days preceding the bid due date for the first gas price adjustment of the POLR term. For subsequent adjustments, $G_E =$ the average of the closing one-month forward NYMEX Henry Hub natural gas prices as reported in the <i>Wall Street Journal</i> , at the time the existing energy charge was last adjusted.

~~(3) Refunds. If in response to a complaint or upon its own investigation, the commission determines that a POLR failed to properly adjust the energy charge component of the POLR rate and as a result overcharged its customers, the commission shall require the POLR to issue refunds to the specific customers who were overcharged.~~

- (m) Limitation on liability. The POLR providers will make reasonable provisions to provide POLR service to customers who request POLR service, or are transitioned to POLR service, individually or through a mass transition; however, in no event other than gross negligence or intentional misconduct, shall the POLR providers be liable to a POLR customer, another REP, or any other third party for any consequential, exemplary, special, incidental, or punitive damages, including without limitation, lost opportunities or lost profits related to providing or preparing to provide POLR service. ~~Marketing to POLR customers.~~ An employee answering the POLR phone line will read from a script to

~~describe POLR service but may market the services of its affiliates or any other REP that has entered into a marketing agreement with the POLR. The POLR shall not discriminate between unaffiliated REPs in the terms and conditions of any such marketing agreement. The POLR shall provide to REPs and aggregators on at least a quarterly basis an updated mass customer list of customers served by the POLR containing information similar to the information that the registration agent is authorized to release under §25.472 of this title (relating to Privacy of Customer Information). The POLR shall not be required to comply with the provisions of §25.472(a)(2) of this title prior to releasing its list of customers~~

(n) **Transition of customers to POLR service.**

(1) (No change.)

(2) A customer other than a residential customer or small commercial customer (as defined in §25.471(d) of this title (relating to General Provisions of Customer Protection Rules) may agree to a contract or terms of service that allow a REP to transfer the customer to a POLR for reasons other than non-payment, including the failure of the customer and its REP to agree on terms of renewal or extension. Unless ERCOT has a transaction that allows REPs to transfer such customers to the POLR, the POLR shall accept written requests for such transfers from REPs and shall initiate a switch for the customer to be transferred to the POLR. The acquisition by the POLR of such customers is not a prohibited enrollment under §25.474 of this title (relating to the Selection or Change of Retail Electric Provider). ~~Further, §25.472(d) of this title (relating to Privacy of Customer Information) does not apply to such permitted customer transfers.~~

(3)-(6) (No change.)

(7) A REP whose customers are transitioned to POLR providers shall return any unused portion of a transitioned customer's deposit within five business days.

(8) ERCOT shall create a database of customer information that will be populated and updated by all REPs to facilitate a mass transition of customers to the POLR REPs. ERCOT shall determine what customer information is necessary to populate the database. All REPs shall comply with the requirements of ERCOT to populate and maintain the customer information database. When a mass transition is initiated, the customer information shall be provided to the POLR provider gaining the customer no later than five business days from the date of mass transition initiation.

(9) When customers are transitioned to a POLR provider, the POLR provider may request usage and demand data from the appropriate TDU and from ERCOT, prior to the transition to the POLR provider. This information shall be provided under a confidentiality agreement.

(10) Information from the TDU and ERCOT to the POLR provider shall be provided in Texas SET format. However, it is allowable to supplement the information to the POLR provider in other formats and fashions to expedite the transition to the POLR provider. This transfer of information will not constitute a violation of the customer protection rules provided the information is provided under a confidentiality agreement.

(11) A POLR may require a deposit from the customer being transitioned to the POLR to continue to serve the customer once the POLR has begun serving the customer.

A POLR may request the deposit before the POLR begins serving the customer, but the POLR shall begin providing service to the customer even if the service initiation date is before the POLR receives the deposit, if any deposit is required, and shall not disconnect the customer until the appropriate time period to submit the deposit has elapsed. The POLR provider may waive the deposit requirement if the waiver is applied in a non-discriminatory fashion. The POLR provider shall waive the deposit requirement for residential customers if the customer meets the qualifications listed in section 2. SECURITY AND BILLING, of the Standard Terms of Service.

(12) On the occurrence of one of the following events, ERCOT shall initiate a mass transition of a REP's customers to the POLR providers:

(A) Termination of the Load Serving Entity (LSE) or Qualified Scheduling Entity (QSE) Agreement with ERCOT;

(B) Commission Order declaring a REP in default of Tariff for Retail Delivery Service;

(C) Commission Order de-certificating a REP;

(D) Commission Order requiring a mass transition to POLR providers; and,

(E) At the request of a REP, for the mass transition of that REP's customers, however, the POLR shall not be used as a means to eliminate non-profitable contracts.

(13) ERCOT shall investigate the feasibility of revising the mass transition process so that customer transfers in a mass transition are initiated by ERCOT, rather than by a REP. ERCOT shall report its conclusions to the commission and implement the

revised process, if directed by the commission. ERCOT may provide procedures for the mass transition process, consistent with this section.

(14) Until the database described in paragraph (8) of this subsection is complete, a REP whose customers are to be transitioned to POLR providers shall provide the following information to the appropriate POLR provider. Providing the information to the POLR providers under the conditions of a transition to POLR providers shall not constitute a violation of Subchapter R of this chapter:

(A) REP's Data Universal Numbering System (DUNS) number;

(B) Customer's ESI ID number;

(C) Customer's account number with the REP that is losing the customer;

(D) Customer's name;

(E) Customer's telephone number;

(F) Customer's billing "care of" name;

(G) Customer's service address;

(H) Customer's billing address;

(I) Customer's most recent 12 month usage and demand; and,

(J) Customer's TDSP charges.

(o) **Termination of POLR status.**

(1) The commission may revoke a REP's POLR status after notice and opportunity for hearing:

(A) If the POLR fails to maintain REP certification;

- (B) If the POLR fails to provide service in a manner consistent with this section;~~or~~
- (C) For good cause, provided the commission affords the POLR due process;~~or~~
or,
- (D) The POLR fails to maintain appropriate financial qualifications.
- (2) If a POLR defaults or has its status revoked before the end of its term, after a review of the eligibility criteria, the next REP that is still eligible per subsection (h) of this section will assume the duties of the former POLR. ~~the commission may appoint any certified REP, other than a REP serving only its own affiliates, serving a customer class in that area to become the POLR until a new POLR is selected pursuant to the provisions of this rule. The rate for such POLR service shall be the rate established pursuant to subsection (k)(4) of this section.~~
- (3) The provisions of this paragraph address the transition to a new POLR at the end of a POLR term.
- (A) (No change.)
- (B) A notice containing the information specified in either subparagraph (C) or (D) of this paragraph, as applicable, shall be provided to each POLR customer at least 60 days prior to the end of the POLR term. The notice shall be in type no smaller than 12 points in size. ~~The notice shall satisfy the requirements of §25.474(m) of this title in the event that the customer fails to switch to another provider and is transferred by the POLR to a competitive affiliate of the outgoing POLR or the customer fails to switch to another provider and is transferred to the incoming POLR by the~~

~~outgoing POLR.~~—The notice shall also include a phone number for the outgoing POLR for the customer to call to obtain more information.

- (C) The notice provided by a POLR that elects to transfer customers who fail to switch to another provider to a competitive affiliate shall include a comparison of the POLR rates currently charged to the customer to the rate offered by the competitive affiliate of the outgoing POLR ~~as well as the applicable price to beat rate.~~ The notice shall specify the deposit requirements of the competitive affiliate of the outgoing POLR and shall state that other providers may also require a deposit and may require payment of any amounts owed the provider for services previously rendered. The notice shall state where the customer may find additional information about offerings of other providers and shall inform the customer that, if the customer does not select another provider or request service from the incoming POLR by a specified date, that a competitive affiliate of the outgoing POLR will continue to serve the customer at the rate specified in the notice.
- (D) (No change.)
- (E) If a POLR customer either requests service from the incoming POLR or is terminated to the incoming POLR by the outgoing POLR, the outgoing POLR shall offset the customer's final bill against the customer's deposit and refund any remaining balance to the customer within 20 days from the customer's final meter read date. The customer shall be entitled to pay the deposit required by the incoming POLR in two installments in the manner

provided in ~~§25.478(e)(3)~~~~§25.478(f)(4)~~ of this title (relating to Credit Requirements and Deposits).

(p) **Electric cooperative delegation of authority.** An electric cooperative that has adopted customer choice may propose to delegate to the commission its authority to select a POLR providers under PURA §41.053(c) in its certificated service area in accordance with this section. After notice and opportunity for comment, the commission will, at its option, accept or reject such delegation of authority. If the commission accepts the delegation of authority, the following conditions will apply:

- (1) (No change.)
- (2) The delegation of authority will be made at least 30 days prior to the time the commission issues ~~a publication of notice of eligibility~~~~an invitation for bids to establish a POLR for a contiguous or surrounding POLR area;~~
- (3) (No change.)
- (4) The electric cooperative wishing to delegate its authority to designate a POLR will also provide the commission with the authority to apply the selection criteria and procedures described in this section in selecting the POLR providers within the electric cooperative's certificated service area; and
- (5) ~~If there are no competitive REPs offering service in the~~~~If the competitive bidding process that includes the~~ electric cooperative certificated area ~~fails~~, the commission will automatically reject the delegation of authority.

(q) (No change.)

(r) **Waiver of customer protection rules.**

- (1) The provisions of §25.475~~(e)(4)~~ of this title requiring issuance of a revised terms of service statement to customers 45 days prior to any material change in the customer's terms of service shall not apply with respect to the implementation of the provisions of subsection (b)(3) of this section or §25.483(b) of this title.
- (2) Certain customer protection rules may be waived for the small non-residential greater than or equal to 50 kW customer class, pursuant to the Standard Terms of Service.
- (s) **Notice of Transition to POLR Service.** When a customer is moved to POLR service the customer will be provided notice of the transition by the REP transitioning the customer as well as by the POLR provider. Notice shall be provided as soon as the transitioning REP knows the customer will be transitioned to POLR service and as soon as the POLR has the customer contact information. The notice of transition to POLR service shall include, at a minimum the following items:
- (1) Notice by the REP transitioning the customer:
- (A) The reason for the transition to POLR service;
- (B) A statement that the customer will receive a separate notice from the POLR that will disclose the date the POLR provider will begin serving the customer;
- (C) A description of how and when any unused customer deposit will be returned to the customer; and,

(D) The following statement: “If you would like to choose a different retail electric provider, please access www.powertochoose.com for a list of providers in your area;”

(E) If applicable, a description of the activities that the REP will use to collect any outstanding payments, 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; and,

(F) Notice to the customer that the customer may accelerate a switch to another REP by requesting a “special or out-of-cycle meter read” and paying the applicable transmission and distribution utility charge for the meter read.

(2) Notice by the POLR provider:

(A) The date the POLR provider will begin serving the customer;

(B) A description of the POLR pricing mechanism and the current POLR rate;

(C) The deposit requirements of the customer and any applicable deposit waiver provisions;

(D) The following statement: “If you would like to choose a different retail electric provider, please access www.powertochoose.com for a list of providers in your area;”

(E) The applicable POLR Standard Terms of Service;

(F) The applicable disconnection procedures; and,

(G) Notice to the customer that the customer may accelerate a switch to another REP by requesting a “special or out-of-cycle meter read” and paying the applicable transmission and distribution utility charge for the meter read.

(t) **Disconnection by POLR.** The POLR provider must comply with the applicable customer protection rules as provided for under Subchapter R of this chapter except as otherwise stated in this section.

Standard Terms of Service Agreement

[Insert POLR Provider Name] (Certificate No. ____)
Provider of Last Resort (POLR) Residential Service

This Standard Terms of Service ~~Agreement~~ applies to residential customers receiving Provider of Last Resort (POLR) service from [insert POLR Provider name] under Public Utility Commission of Texas (PUCT) Retail Electric Provider (REP) Certificate No. _____. These standard terms of service are subject to current and future customer protection laws or rules as prescribed by local, state or federal authorities and to changes in applicable charges or transmission and distribution service provider (TDSP) rates. Customers will be notified of material changes in these standard terms of service resulting from changes in local, state or federal legislation or rules, applicable charges, or TDSP rates, ~~[insert if option A below applies: except for changes in the energy charge component of the price for basic service as described below,]~~ at least 45 days before such changes take effect unless otherwise directed by law. Each Standard Terms of Service ~~Agreement~~ will be given a unique version number for quick reference.

SPANISH LANGUAGE (IDIOMA ESPANOL) Si usted quiere obtener el mismo documento impreso detallando los Términos de Servicio en español comunicandose con nosotros al [insert toll-free number].

1. PRICE FOR BASIC FIRM SERVICE

POLR Provider will provide basic firm service, defined as electric service not subject to interruption for economic reasons and that does not include value-added options offered in the competitive market. The rate for your electric service from POLR Provider will be based on the formula detailed below. ~~following [insert if option A applies: plus any applicable recurring monthly charges identified below,]~~ Non-recurring charges (i.e., charges not occurring every month) will be billed as they are incurred and are set out in section 3 **SERVICE CHARGES AND FEES**, below.

~~A.—Your rate for POLR service will be derived from the following formula: consist of an energy charge, [insert if applicable: monthly customer charge], and non-bypassable charges as described below.~~

~~POLR rate (in cents/kWh) = (X% * Zonal Average Monthly MCPE Shaped by ERCOT Load Profile * Customer's Metered Usage) + (Monthly Customer Charge or Demand Charge) + (TDSP Charges)~~

~~Where the "Zonal Average Monthly MCPE shaped by ERCOT Load Profile" is a weighted average defined per Weather Zone and Congestion Zone, and is reported on the ERCOT website, as:~~

$$\sum_{\text{All Intervals}} \left(\frac{\text{15 Minute Interval Load Based on Appropriate Customer Class Profile}}{\text{Sum of a Month of Interval Load}} * \text{Corresponding 15 Minute Zonal MCPE} \right)$$

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~~Energy charge: The energy charge shall be recalculated at the beginning of each month in accordance with the formula provided below. If the recalculated energy charge varies by more than 5% from the existing energy charge, then the energy charge component of your rate for that billing month shall be the recalculated charge (see note below).* If the recalculated energy charge does not vary by more than 5% from the existing energy charge, then the energy charge~~

~~component of your rate for that billing month shall remain unchanged. The applicable energy charge for the billing month will be stated on your monthly bill from POLR Provider. For additional information on the current energy charge, refer to [insert website address] or contact POLR Provider at [insert phone number].~~

$$\text{Energy Charge}_N = \text{Energy Charge}_E * \text{Gas Price}_N / \text{Gas Price}_E$$

Where:

~~Energy Charge_N = recalculated energy charge~~

~~Energy Charge_E = existing energy charge~~

~~Gas Price_N = the average of the closing one-month forward New York Mercantile Exchange (NYMEX) Henry Hub natural gas prices as reported in the Wall Street Journal for the last five trading days of the month ended 30 days prior to the effective date of the recalculated energy charge.~~

~~Gas Price_E = the average of the closing one-month forward NYMEX Henry Hub natural gas prices as reported in the Wall Street Journal for the last five business days preceding the bid due date for the first gas price adjustment of the POLR term. For subsequent calculations, Gas Price_E = the average of the closing one-month forward NYMEX Henry Hub natural gas prices as reported in the Wall Street Journal, at the time the existing energy charge was last adjusted.~~

~~*NOTE: If the recalculated energy charge results in the overall POLR price being lower than the price to beat rate charged by [specify affiliated REP] under [specify applicable tariff], the POLR price will be set at the price to beat rate for that billing month.~~

~~[If applicable] Monthly customer charge: [Insert \$ amount]~~

~~**Nonbypassable charges:** These charges are billed to POLR Provider and include, but are not limited to: Transmission and Distribution Service Provider's (TDSP) wires usage and miscellaneous discretionary charges, transition to competition (CTC) charges, system benefit fund (SBF) payments, taxes or charges from various taxing or regulatory authorities, including POLR Provider's Gross Receipts tax, and other non-bypassable charges.~~

~~OR [insert if applicable]~~

~~B. [Insert rate = 125% of the applicable price to beat] This rate is 125% of the price to beat rate charged by [specify affiliated REP] under [specify applicable tariff]. You will be notified of any change in the rate that may result from changes in the price to beat rate.~~

2. SECURITY AND BILLING

[PAY-IN-ADVANCE LANGUAGE TO BE INCLUDED IN TOSS AT THE OPTION OF THE POLR PROVIDER:

POLR Provider will offer the option to either pay a cash deposit to prevent disconnection after POLR provider has begun providing your electric service, secure your service pursuant to subsection (a) CASH DEPOSIT below or to choose PAY-IN-ADVANCE BILLING OPTION IN LIEU OF CASH DEPOSIT pursuant to subsection (b) below.]

Public Utility Commission of Texas
Figure: 16 TAC §25.43(f)(1)(A)

POLR Provider ~~shall~~~~may~~ not require a cash deposit if you are able to provide ~~the~~ POLR Provider with a Credit Reference Letter that includes the following representations: 1) you have been a customer of any retail electric provider or the electric utility (prior to 2002) within the two years prior to your request for electric service; 2) you are not delinquent in payment of any such electric service account; and 3) you were not late in paying a bill more than once during the last 12 consecutive months.

A residential customer ~~shall also~~~~may~~ be deemed as having established satisfactory credit and shall not be required to pay a cash deposit if the customer possesses a satisfactory credit rating obtained through an accredited credit reporting agency.

If these conditions do not apply, POLR Provider may require a cash deposit unless you can demonstrate to the POLR Provider any of the following prior to the due date of the cash deposit: 1) you are 65 years of age or older and your account with any retail electric provider or the electric utility (prior to 2002) has not had a delinquent balance within the last 12 months for the same type of service; 2) you are a victim of family violence as defined by the Texas Family Code § 71.004, by a family violence center, or by treating medical personnel;* or 3) you are medically indigent.**

*This determination shall be evidenced by submission of a certification letter developed by the Texas Council on Family Violence. The certification letter may be submitted directly by use of the toll-free fax number listed below to POLR Provider.

** To be considered medically indigent, the customer must make a demonstration that the following criteria are met: the customer's household income must be at or below 150% of the poverty guidelines as certified by a governmental entity or government funded energy assistance program provider, and either of the following must apply: (i) the customer or the customer's spouse has been certified by that person's physician (for the purposes of this subsection, the term "physician" shall mean any medical doctor, doctor of osteopathy, nurse practitioner, registered nurse, state-licensed social worker, state-licensed physical and occupational therapist, and an employee of an agency certified to provide home health services pursuant to 42 U.S.C. §1395 *et seq* as being unable to perform three or more activities of daily living, as defined in Title 22, Texas Administrative Code, Section 218.2, or (ii) the customer's monthly out-of-pocket medical expenses exceed 20% of the household's gross income.

a) TRADITIONAL CASH DEPOSIT

- 1) Your initial cash deposit, if required, will be based on one-sixth (1/6) of your estimated annual billing. You may also be required, in the future, to pay an initial or additional cash deposit if you have been issued a disconnection notice within the last 12 months or if you have been a customer for 12 months and your billings are more than twice the amount estimated to determine your initial cash deposit. Instead of an additional cash deposit, you may pay the total amount due by the due date of the bill, provided you have not exercised this option in the previous 12 months.
- 2) Your total cash deposit shall not exceed an amount equivalent to one-sixth (1/6) of your estimated annual billing.
- 3) POLR Provider may require payment of an initial cash deposit within ten days of receiving confirmation from the Registration Agent of the effective date you become a customer of the POLR.
- 4) A customer who has applied for or is enrolled currently in LITE UP Texas (Low Income Telephone and Electric Utilities Program) may pay the initial cash deposit to POLR Provider in two installments. The first installment shall not exceed the estimated billing for the next month or one-twelfth (1/12) of the estimated annual billing and shall be due within ten days of POLR Provider's issuance of the written notice requiring the cash deposit. The second installment for the remainder of the cash deposit shall be due within 40 days of the issuance of the original written notice. For more information regarding LITE UP Texas, contact POLR Provider or call toll-free 1-866-4-LITE-UP (1-866-454-8387) to determine eligibility or to receive an application.

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Figure: 16 TAC §25.43(f)(1)(A)

- 5) A written letter of guarantee may be used in lieu of paying a cash deposit. The guarantor must become or remain a customer of the POLR or its affiliated REP for the term in which the guarantee is in effect. If the guarantor fails to become, or ceases to be, a customer of the POLR or its affiliated REP, the POLR may require the customer to pay the initial or additional cash deposit as a condition of continuing the contract for service.
- 6) Upon default by a residential customer, the guarantor of the customer's account shall be responsible for the unpaid balance of the account only up to the agreed amount in the letter of guarantee. The POLR, or its affiliated REP shall provide written notification to the guarantor of the customer's default, the amount owed by the guarantor, and the due date for the amount owed. The guarantor will have 16 days from the date the notice is issued to pay the amount owed on the defaulted account. If the 16th day falls on a holiday or weekend, the due date shall be the next business day. The POLR or its affiliated REP may transfer the amount owed on the defaulted account to the guarantor's own electric service bill provided the guaranteed amount owed is identified separately on the bill.
- 7) The POLR or its affiliated REP may initiate disconnection of service to the guarantor for nonpayment of the guaranteed amount within ten days of issuance of a notice of disconnection.
- 8) Your service may be disconnected for failure to pay a required cash deposit (initial or additional) within ten days of issuance of a notice of disconnection of service.
- 9) A disconnection notice may be issued concurrently with either the written request for the initial or additional cash deposit or current monthly bill for electric service. Disconnection means a physical interruption of electric service.
- 10) You will accrue interest on your cash deposit(s) with POLR Provider. Each year in December, the PUCT establishes the interest rate POLR Provider will apply to your cash deposit for the next calendar year.
- 11) Your cash deposit and accrued interest, less any outstanding balance owed for electric service, will be refunded to you upon closing of your account with POLR Provider.
- 12) Your cash deposit and accrued interest will be refunded if you pay your bills for 12 consecutive months without your service being disconnected for nonpayment and without having more than two delinquent payments.
- 13) The guarantee agreement will be terminated if you pay your bills for 12 consecutive months without your service being disconnected for nonpayment and without having more than two delinquent payments within the last 12 months.

b) *[PAY-IN-ADVANCE LANGUAGE TO BE INCLUDED IN STANDARD TERMS OF SERVICE AT THE OPTION OF POLR PROVIDER]* **PAY-IN-ADVANCE BILLING OPTION IN LIEU OF CASH DEPOSIT**

- 1) If you select the pay-in-advance option, you will be billed in advance for your electric service after POLR Provider receives confirmation from the Registration Agent of the effective date you are to become a POLR customer of POLR Provider. All bills, except the initial one requesting your payment in advance, will include, where applicable, the monthly charge, energy charge, non-bypassable charges, applicable taxes, service charges and other costs as permitted by governmental or regulatory authorities.
- 2) Your initial pay-in-advance billing will include charges for two months average kilowatt hour (kWh)~~kWh~~ consumption during the prior year and will include, where applicable, ~~an estimate for two months of non-bypassable charges,~~ applicable taxes, service charges and other costs as permitted by governmental or regulatory authorities. The pay-in-advance amount will be used in lieu of the cash deposit and will be no greater than \$200 or less than \$75. The initial pay-in-advance option in lieu of cash deposit will be due within ten days of issuance of a notice requiring a pay-in-advance billing.
- 3) Pay-in-advance billing requires that you maintain a balance of the two months initial total estimated charges for the time that you are a POLR customer and will be billed monthly on approximately 30-day periods.

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Figure: 16 TAC §25.43(f)(1)(A)

- 4) Your bill will be due upon receipt and will be considered delinquent if it is not paid by the 16th calendar day after issuance of the bill.
- 5) If your pay-in-advance billing exceeds the initial pay-in-advance amount, then the pay-in-advance billing amount will be reset to the highest amount for the next billing cycle.
- 6) There is no interest accrued on pay-in-advance billing.
- 7) If historical usage is not available, POLR Provider in its sole judgment may develop reasonable good faith estimates to determine your billing and establish a pay-in-advance billing amount accordingly. Estimates will be based on key energy determinants such as square footage, and HVAC type and size. Once there is an established history of six months usage, POLR Provider will review the pay-in-advance amount and adjust it, if necessary.
- 8) Billing statements will reflect the total charges for POLR services provided by POLR Provider.
- 9) Your service may be disconnected if you fail to pay the required pay-in-advance bill within ten days of issuance of a notice of disconnection of service.
- 10) A disconnection notice may be issued concurrently with the written request for the required pay-in-advance bill.

c) BILLING

- 1) You will be billed monthly for your electric service.
- 2) Your monthly billing period will be approximately 30 days.
- 3) You will be billed monthly after your scheduled monthly meter read date. Billing statements will reflect the total charges for POLR services provided by POLR Provider.
- 4) Your bill will be due upon receipt and will be considered delinquent if it is not paid by the 16th day after issuance of the bill.
- 5) POLR Provider offers deferred and level payment (also known as budget) plans. Budget plans will be reconciled quarterly. Please contact POLR Provider at the 24-hour customer service number below for information about these options.

3. SERVICE CHARGES AND FEES

You will be subject to the following charges and fees in addition to the **PRICE FOR BASIC SERVICE** in section 1:

Service Charges and Fees	Amount
Account History charge if you request and are provided a premise usage history for more than the most recent 12 months or if a 12-month history is requested more than once within a 12-month period. If you are a low-income customer, the first two premise usage histories provided on your behalf to an agency providing bill payment assistance shall not be counted in determining whether you are subject to an account history charge.	\$25.00
Collection Letter charge for processing a registered or certified letter demanding payment of past due accounts.	\$15.00
Disconnection charge for disconnection of service pursuant to TDSP's tariffs.	[Insert pass through charge from TDSP]
Account Reinstatement fee for handling accounts for reconnection after disconnection for non-payment (in addition to any applicable disconnect or reconnect charges).	No charge
Equipment charge for providing testing, monitoring or other special equipment at the request of the customer.	[Insert pass through charge from TDSP]

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Figure: 16 TAC §25.43(f)(1)(A)

Service Charges and Fees	Amount
Reconnection charge for reconnection of service pursuant to TDSP's tariffs.	[Insert pass through charge from TDSP]
Unmetered Guardlight/Security lighting charge applies to existing guardlights.	[Insert applicable \$/kWh charge equivalent to 125% of former applicable PTB]
Late fees will be assessed on delinquent deferred payment arrangements. Deferred payment arrangements are delinquent if not paid by the date specified by the deferred payment plan.	5% assessed on the late deferred payment amount
Out-of-cycle meter reading charge may be charged if you request an out-of-cycle meter reading:	
During regular hours	[Insert pass through charge from TDSP]
Outside regular working hours – Non-holiday	[Insert pass through charge from TDSP]
Outside regular working hours – Holidays	[Insert pass through charge from TDSP]
Reread charge will be assessed if requested by the customer.	[Insert pass through charge from TDSP]
Return check charge for each check returned for insufficient funds.	\$25.00
Tampering charge for unauthorized reconnection of service, tampering with the electric meter, theft of electric service by any person on customer's premise, or evidence thereof, at customer's premise. Additional charges for repair, replacement, relocation of equipment and estimated amount of electric service not recorded may also be billed to you.	[Insert pass through charge from TDSP]
Disconnection Reminder Notification charge for notifying customer that disconnection of service may be in progress. This notification may be made by telephone, electronically or by any means of communication appropriate for the customer.	\$5.00
POLR Provider reserves the right to charge for court costs, legal fees, and other costs associated with collection of delinquent amounts.	
POLR Provider reserves the right to charge for services requested by you that are rendered on your behalf after your approval of disclosed charges for those services, as well as the right to pass through tariff charges for services rendered by the TDSP.	

4. DISCONNECTION OF SERVICE

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Figure: 16 TAC §25.43(f)(1)(A)

Disconnection means a physical interruption of electric service. Disconnection is subject to the rules of the PUCT.

- a) Your account will be considered delinquent if your monthly bill or pay-in-advance bill is not paid on or before the 16th day after issuance of the bill. If your account becomes delinquent, your service may be disconnected ten days after notice is issued.
- b) Your service may be disconnected after you are notified of your failure to comply with the terms of this Standard Terms of Service ~~Agreement~~ or any payment plan.
- c) Service may not be reconnected by the POLR Provider until all delinquent amounts and charges owed to POLR Provider have been paid.
- d) Your service may be disconnected without notice if a dangerous or hazardous condition exists, if the service has been connected without proper authority or for the reasons prescribed in the PUCT substantive rules. Service will not be reconnected until the dangerous or hazardous condition has been corrected.
- e) If you choose to cancel service under this Standard Terms of Service ~~Agreement~~, your service will be disconnected unless you have made arrangements with another retail electric provider and a switch of provider has been successfully completed by the Registration Agent by the date you choose to cancel service. You will be responsible for any charges pursuant to section 1 **PRICE FOR BASIC SERVICE**, section 2 **SECURITY AND BILLING** and section 3 **SERVICE CHARGES AND FEES** of this agreement up to the date you choose to cancel service.
- f) A disconnection notice may be issued concurrently with the written requests for either the initial or additional cash deposit or with a pay-in-advance in lieu of cash deposit billing.
- g) A disconnection notice may be issued concurrently with your bill.
- h) You may be disconnected for failure to pay an initial pay-in-advance bill in lieu of cash deposit or a monthly pay-in-advance bill.
- i) POLR Provider cannot disconnect your electric service until you are a customer of the POLR Provider.

5. CUSTOMER INFORMATION

You will be required to provide your social security number, a valid driver's license number, or other verifiable means of personal identification.

You authorize the TDSP, any previous retail electric provider, or the Independent Organization to provide POLR Provider information including, but not limited to: previous billings and usage of electricity, meter readings and types of service received, credit history, any records of tampering, and other names in which service has been provided, social security number, contact telephone number(s), driver's license, etc.

You authorize POLR Provider to release your customer payment information to credit reporting agencies, regulatory agents, agents of POLR Provider, energy assistance agencies, law enforcement agencies or the TDSP.

You authorize POLR Provider to use credit-reporting agencies to evaluate your credit history.

6. LENGTH OF AGREEMENT

NOTICE: POLR PROVIDER CANNOT REQUIRE THAT YOU SIGN UP FOR A MINIMUM CONTRACT TERM AS A CONDITION OF PROVIDING SERVICE.

No term of service is required under this agreement unless by mutual agreement a term is agreed to in writing between you and POLR Provider or unless you enter a level payment plan or deferred payment plan. If you decide to be placed on POLR Provider's:

- a) Level (also known as Budget) Payment Plan, your term of service shall be six months from the date of the first monthly billing subsequent to being placed on the level payment plan. The term shall start on the date you enter the Level Payment Plan; or

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Figure: 16 TAC §25.43(f)(1)(A)

- b) Deferred Payment Plan, your term of service shall be a minimum of three months or the length agreed to for making deferred payments, whichever is longer. The term shall start on the date you enter the Deferred Payment Plan.
- c) You will not be charged a penalty for canceling your service before the end of the term but you will be responsible for all outstanding amounts due including Level and Deferred Payment Plan reconciliation amounts.

7. END OF POLR TERM

POLR Provider’s standard terms of service and obligations to offer the POLR rate specified under subsection 2, PRICE FOR BASIC SERVICE, will expire on *[insert last date of POLR term]*. At least 60 days before that date, POLR Provider will provide you notice of available options for securing electric service after POLR’s existing term has expired. If you obtain electric service from a provider other than POLR Provider, your final bill from POLR Provider will be offset against your deposit and any remaining balance will be refunded to you within 20 days from the final meter read date.

8. CONTACT INFORMATION

Name of Provider:	24-Hour Customer Service: (toll free)
Physical Address:	24-Hour Power Outages: Contact your local electricity delivery company
	Internet web-site:
	Fax: (toll free)

You may contact POLR Provider if you have a dispute concerning your bill or your service from POLR Provider. You must provide, in writing, within ten business days of the invoice date, your reasons for disputing the invoice. You will be obligated to pay the undisputed portion of the bill and the POLR may pursue disconnection of service for nonpayment of the undisputed portion after appropriate notice. In the event that you give timely notice of a dispute, you and the POLR Provider shall, for a period of 30 calendar days following POLR Provider’s receipt of the notice, pursue diligent, good faith efforts to resolve the dispute. Following resolution of the dispute, any amount found payable by either party shall be paid within ten business days.

Complaints regarding your service may also be directed to the Public Utility Commission of Texas, 1-888-782-8477 (toll free).

9. LOW INCOME PAYMENT ASSISTANCE INFORMATION

Rate discounts are available for qualified low-income customers. For more information, contact POLR Provider Customer Service or either of the following state agencies:

Texas Department of Housing and Consumer Affairs:	1-512-475-3800
Public Utility Commission of Texas:	1-888-782-8477 (toll free)

10. BILL PAYMENT METHODS

You may pay for your electric service by personal or cashier's check, money order, debit or credit card, electronic funds transfer, *[Insert if offered by POLR Provider (optional): in cash through an agent authorized by the POLR Provider]*, or automatic draft from your financial institution. If you choose to make payment via electronic funds transfer or automatic draft, you must contact POLR Provider’s Customer Service number to begin those options for bill payment at no cost.

Public Utility Commission of Texas
Figure: 16 TAC §25.43(f)(1)(A)

If you have had two or more personal checks returned for insufficient funds within the last 12 months, POLR Provider will require all further payments for electric service to be by cash, cashier's check, money order or debit/credit card. If you pay by debit/credit card and it has been declined two or more times within the last 12 months, POLR Provider will require all further payments to be by cash, cashier's check or money order.

11. FORCE MAJEURE

POLR Provider shall not be liable in damages for any act or event that is beyond its control including but not limited to, an act of God, act of the public enemy, war, insurrection, riot, fire, explosion, labor disturbance or strike, terrorism, wildlife, accident, breakdown or accident to machinery or equipment, or a valid curtailment order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities, including any directive of the independent organization, and performance or nonperformance by the TDSP.

12. LIMITATION OF LIABILITY

POLR PROVIDER DOES NOT GENERATE YOUR ELECTRICITY, NOR DOES POLR PROVIDER TRANSMIT OR DISTRIBUTE ELECTRICITY TO YOU. POLR PROVIDER WILL NOT BE LIABLE FOR FLUCTUATIONS, INTERRUPTIONS OR IRREGULARITIES IN BASIC FIRM SERVICE. LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES. NEITHER YOU NOR THE POLR PROVIDER SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE.

13. REPRESENTATIONS AND WARRANTIES

POLR PROVIDER WARRANTS THAT THE ELECTRICITY SOLD UNDER THIS AGREEMENT WILL BE "BASIC FIRM SERVICE" AS THAT TERM IS DEFINED IN PUCT SUBSTANTIVE RULE 25.43(c)(3), TO WIT "ELECTRIC SERVICE NOT SUBJECT TO INTERRUPTION FOR ECONOMIC REASONS AND THAT DOES NOT INCLUDE VALUE ADDED OPTIONS OFFERED IN THE COMPETITIVE MARKET. BASIC FIRM SERVICE EXCLUDES, AMONG OTHER COMPETITIVELY OFFERED OPTIONS, EMERGENCY OR BACK-UP SERVICE, AND STAND-BY SERVICE."

POLR PROVIDER MAKES NO OTHER WARRANTIES WHATSOEVER WITH REGARD TO THE PROVISION OF ELECTRIC SERVICE AND DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

14. DISCRIMINATION

POLR Provider will not refuse to provide electric service or otherwise discriminate in the provision of electric service to any customer based on race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, disability, familial status, level of income, location of customer in an economically distressed geographic area, or qualification for low-income or energy efficiency services.

You have the right to cancel this agreement (~~Standard Terms of Service Agreement~~) for electric service without penalty or fee of any kind for a period of three federal business days after you have received the ~~Standard Terms of Service~~. You may cancel your service and this agreement by calling the toll free 24-hour Customer Service number contained in this ~~Standard Terms of Service Agreement~~ or by contacting us via fax or e-mail. *Cancellation of this agreement will result in disconnection of your service as provided in this agreement.*

Standard Terms of Service Agreement

[Insert POLR Provider Name] (Certificate No. _____)

Provider of Last Resort (POLR) Small Non-Residential Service (insert: less than 50 kW or greater than or equal to 50 kW)

This Standard Terms of Service (~~STOS~~)Agreement (TOSA) applies to small non-residential customers (i.e., one megawatt and below) (insert: less than 50 kW or greater than or equal to 50 kW) receiving Provider of Last Resort (POLR) service from POLR Provider under Public Utility Commission of Texas (PUCT) Retail Electric Provider (REP) Certificate No. _____. These standard terms of service are subject to current and future customer protection laws or rules as prescribed by local, state or federal authorities and to changes in applicable charges or transmission and distribution service provider (TDSP) rates. Customers will be notified of material changes in these Standard Terms of Service resulting from changes in local, state, or federal legislation or rules, applicable charges, or TDSP rates, ~~[insert if option A below applies: except for changes in the energy charge component of the price for basic firm service as described below,~~ at least 45 days before such changes take effect, unless otherwise directed by law. Each TOSA will be given a unique version number for quick reference.

SPANISH LANGUAGE (IDIOMA ESPANOL) Si usted quiere obtener el mismo documento impreso detallando los Términos de Servicio en español comunicandose con nosotros al [insert toll-free number].

1. PRICE FOR BASIC FIRM SERVICE.

POLR Provider will provide basic firm service, defined as electric service not subject to interruption for economic reasons and that does not include value-added options offered in the competitive market. The rate for your electric service from POLR Provider will be based on the formula detailed below. ~~following [INSERT IF OPTION A APPLIES TO POLR PROVIDER: plus any applicable recurring monthly charges.] [PAY IN ADVANCE LANGUAGE TO BE INCLUDED IN TERMS OF SERVICE AT THE OPTION OF POLR PROVIDER:]~~ These charges may be applied in a pay-in-advance manner as described in section 2 **SECURITY AND BILLING.** Non-recurring charges will be billed as they are incurred and are set out in section 3 **SERVICE CHARGES AND FEES** below.

A.—Your rate for POLR service will be derived from the following formula:

POLR rate (in cents/kWh) = (X% * Zonal 30-Day Average MCPE Shaped by ERCOT Load Profile * Customer's Metered Usage) + (Monthly Customer Charge or Demand Charge) + (TDSP Charges)

Where the "Zonal 30-Day Average MCPE Shaped by ERCOT Load Profile" is a weighted average defined per Weather Zone and Congestion Zone, and is reported on the ERCOT website, as:

$$\sum_{\text{All Intervals}} \left(\frac{\text{15 Minute Interval Load Based on Appropriate Customer Class Profile}}{\text{Sum of 30 days of Interval Load}} * \text{Corresponding 15 Minute Zonal MCPE} \right)$$

~~consist of an energy charge, [INSERT IF APPLICABLE: demand charge], [INSERT IF APPLICABLE: monthly customer charge], and non-bypassable charges as described below.~~

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Figure: 16 TAC §25.43(f)(1)(B)

~~Energy charge: The energy charge shall be recalculated at the beginning of each month in accordance with the formula provided below. If the recalculated energy charge varies by more than 5% from the existing energy charge, then the energy charge component of your rate for that billing month shall be the recalculated charge (see note below).* If the recalculated energy charge does not vary by more than 5% from the existing energy charge, then the energy charge component of your rate shall remain unchanged. The applicable energy charge will be stated on your monthly bill from POLR Provider. For additional information on the current energy charge, refer to [INSERT POLR PROVIDER WEBSITE ADDRESS] or contact POLR Provider at [INSERT PHONE NUMBER].~~

$$\text{Energy Charge}_N = \text{Energy Charge}_E * \text{Gas Price}_N / \text{Gas Price}_E$$

Where:

~~Energy Charge_N = recalculated energy charge~~

~~Energy Charge_E = existing energy charge~~

~~Gas Price_N = the average of the closing one-month forward New York Mercantile Exchange (NYMEX) Henry Hub natural gas prices as reported in the *Wall Street Journal* for the last five trading days of the month ended 30 days prior to the effective date of the recalculated energy charge.~~

~~Gas Price_E = the average of the closing one-month forward NYMEX Henry Hub natural gas prices as reported in the *Wall Street Journal* for the last five business days preceding the bid due date for the first gas price adjustment of the POLR term. For subsequent calculations, Gas Price_E = the average of the closing one-month forward NYMEX Henry Hub natural gas prices as reported in the *Wall Street Journal*, at the time the existing energy charge was last adjusted.~~

~~[IF APPLICABLE] Demand charge: [Insert \$/kW amount]~~

~~The demand charge is calculated based on the customer's highest billing demand in any interval within the current billing period. Non demand metered customers will be billed based on ten kilowatts (kW) monthly.~~

~~[IF APPLICABLE] Monthly customer charge: [Insert \$ amount]~~

~~**Nonbypassable charges:** These charges are billed to POLR Provider and include, but are not limited to: Transmission and Distribution Service Provider's (TDSP) wires usage and miscellaneous discretionary charges, transition to competition (CTC) charges, system benefit fund (SBF) payments, taxes or charges from various taxing or regulatory authorities, including POLR Provider's Gross Receipts tax, and other non-bypassable charges.~~

~~*NOTE: If the recalculated energy charge results in the overall POLR price being lower than the price to beat rate charged by [specify affiliated REP] under [specify applicable tariff], the POLR price will be set at the price to beat rate for the applicable billing month.~~

~~OR [INSERT IF APPLICABLE]~~

~~B. [Rate = 125% of the applicable PTB] This rate is 125% of the price to beat rate charged by [SPECIFY AFFILIATED REP] under [SPECIFY APPLICABLE TARIFF]. You will be notified of any change in the rate that may result from changes in the price to beat rate.~~

2. SECURITY AND BILLING

[PAY-IN-ADVANCE LANGUAGE TO BE INCLUDED IN STANDARD TERMS OF SERVICE AT THE OPTION OF POLR PROVIDER POLR Provider will offer the option to either pay a cash deposit to prevent disconnection after POLR provider has begun providing your electric service. ~~secure your service~~ pursuant to subsection (a) CASH DEPOSIT or to choose **PAY-IN-ADVANCE BILLING OPTION IN LIEU OF CASH DEPOSIT** pursuant to subsection (b).]

POLR Provider has no obligation to continue to serve you if you fail to pay the required cash deposit within the appropriate time frame [or to accept pay-in-advance billing.]

a) CASH DEPOSIT

If service is initiated under option (a) CASH DEPOSIT you will be billed monthly for your electric service after the scheduled monthly meter read date. The monthly billing period will be approximately 30 days. Your bill will be due upon receipt and will be considered delinquent if it is not paid by the sixteenth (16th) day after issuance of the bill. Disconnection of service may result upon non-payment of a bill pursuant to section 4 **DISCONNECTION OF SERVICE.**

- 1) If your service is initiated with POLR Provider by paying a cash deposit, you will be required to pay the initial cash deposit after POLR Provider receives confirmation from the Registration Agent of the effective date you are to become a customer of POLR Provider. Cash deposits required for POLR service shall be equivalent to the estimated billing for a two-month period, including, where applicable, customer and non-bypassable charges, and energy and demand charges determined based on your two highest months of usage and demand in the most recent 12-month period. If 12 months of data are not available, the required two months cash deposit shall be determined by the longest available period less than 12 months.
- 2) If historical usage is not available, POLR Provider in its sole judgment may develop reasonable good faith estimates to determine your cash deposit amount. Estimates will be based on key energy determinants and electric equipment, including, but not limited to: square footage, HVAC size and type, type of business, hours of operation, standard industry load factor assumptions, etc. Other non-discriminatory methods of determining creditworthiness may be used.
- 3) You may be required, in the future, to pay an initial or additional cash deposit or [to pay-in-advance pursuant to subsection (b)] if you have been issued a disconnection notice within the last 12 months or if you have been a customer for 12 months and you have used more than twice the amount estimated to determine your initial cash deposit.
- 4) You will accrue interest on your cash deposit with POLR Provider. Each year in December, the PUCT establishes the interest rate POLR Provider will apply to your cash deposit for the next calendar year.
- 5) You may satisfy security requirements by providing POLR Provider with an irrevocable letter of credit in the amount of the required cash deposit. The required security must be provided within ten days after a notice is issued to you requesting a cash deposit.
- 6) If not previously returned to you, your cash deposit and accrued interest, less any outstanding balance owed for electric service, will be refunded to you upon closing of your account with POLR Provider.
- 7) If your service is terminated prior to the regularly scheduled meter read date, the final bill for service may be calculated using the out of cycle meter readings. Final bills will not be prorated.
- 8) POLR Provider will require payment of the initial cash deposit within ten days of receiving confirmation from the Registration Agent of the effective date you become a customer of the POLR.
- 9) Your service may be disconnected if you fail to pay the required cash deposit (initial or additional) within ten days of issuance of a notice of disconnection of service.

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Figure: 16 TAC §25.43(f)(1)(B)

b) [PAY-IN-ADVANCE LANGUAGE TO BE INCLUDED IN STANDARD TERMS OF SERVICE AT THE OPTION OF POLR PROVIDER] PAY-IN-ADVANCE BILLING OPTION IN LIEU OF CASH DEPOSIT

- 11) If your POLR electric service is initiated by pay-in-advance, you will be billed in advance for your electric service after POLR Provider receives confirmation from the Registration Agent of the effective date you are to become a POLR customer of POLR Provider. All bills including the initial one requesting your payment in advance, will include the monthly customer charge, demand charge, energy charge, and an estimate of two months' non-bypassable charges, applicable taxes, service charges and other costs as permitted by governmental or regulatory authorities.
- 12) Your initial pay-in-advance billing will include charges for two months, based on historical demand (the highest demand recorded for your service in the prior 12 months) ~~plus an energy charge (based on your kWh consumption for the highest two months during the prior 12 months)~~ and will be due within ten days of issuance of the notice requiring a pay-in-advance billing.
- 13) Pay-in-advance billing requires that you maintain a balance of the two-months initial total estimated charges for the time that you are a POLR customer and will be billed monthly on approximately 30-day periods.
- 14) Your bill will be due upon receipt and will be considered delinquent if it is not paid by the 16th calendar day after issuance of the bill.
- 15) If your pay-in-advance billing exceeds the initial pay-in-advance amount then the pay-in-advance billing amount will be reset to that amount for the next billing cycle.
- 16) There is no interest accrued on pay-in-advance billing.
- 17) If historical usage is not available, POLR Provider in its sole judgment may develop reasonable good faith estimates to determine your billing and establish a pay-in-advance billing amount accordingly. Estimates will be based on key energy determinants and electric equipment including, but not limited to: square footage, HVAC type and size, type of business, hours of operation, standard industry load factor assumptions, etc. Once there is an established history of six months usage, POLR Provider will review the pay-in-advance amount and adjust it if necessary. If your monthly bill exceeds the pay-in-advance amount, the pay-in-advance amount will be adjusted accordingly.
- 18) Billing statements will reflect the total charges for POLR services provided by POLR Provider.
- 19) Your service may be disconnected if you fail to pay the required pay-in-advance bill within ten days of issuance of a notice of disconnection of service.

3. SERVICE CHARGES AND FEES

You will be subject to the following charges and fees in addition to the **PRICE FOR BASIC FIRM SERVICE** in section 1. These fees will be billed for each premise. "Premise" herein shall mean the designated property or facilities and associated metered account identified by an Electric Service Identifier Number (ESI ID), which is a unique and permanent identifier assigned to each Premise.

Service Charges and Fees	Amount
Account Reinstatement fee for handling accounts for reconnection after disconnection for non-payment. This is in addition to any applicable disconnect or reconnect charges.	\$10.00
Account History charge if you request and are provided a premise usage history for more than the most recent 12 months or if a 12 month history is requested for more than once within a 12 month period.	\$25.00
Collection Letter charge for processing a registered or certified letter demanding payment of past due accounts.	\$15.00
Drawing on an irrevocable letter of credit. Includes all of the activities required to present a drawing letter to customer's bank.	\$50.00 plus any fees imposed by

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Figure: 16 TAC §25.43(f)(1)(B)

Service Charges and Fees	Amount
	financial institution
Disconnection charge for disconnection of service pursuant to TDSP's tariffs.	[Insert pass through charge from TDSP]
Equipment charge for providing testing, monitoring or other special equipment at the request of the customer.	[Insert pass through charge from TDSP]
Field Collection charge for each trip to customer's premise to collect an amount that is past due when the customer requests the trip.	\$10.00/ESI ID
Field Service Calls for each trip to the customer's premise to provide non-competitive services such as billing and outage-related inquiries, as requested and approved by the customer after trip charges are disclosed. A two hour minimum will be billed for each customer requested Field Service Call and includes travel and incidental expenses with the Field Service Call as well as any TDSP discretionary charges.	\$100.00/hour
Reconnection charge for reconnection of service pursuant to TDSP's tariffs.	[Insert pass through charge from TDSP]
Guardlight/Security lighting charge applies to existing guardlights or security lighting.	[Insert applicable \$/kWh charge equivalent to 125% of former applicable PTB]
Master Contracts <ul style="list-style-type: none"> • Set-up fee per new or transferred contract • Additional fee per each unit placed on a master contract, added to an existing contract or transferred 	\$25.00 \$ 5.00
Master Metered Facilities: Master Metered Tenant charge for small non-residential 50 kW and below facilities may be assessed to recover costs associated with installing, maintaining, testing, reading or other costs incurred by POLR Provider for rendering electric service to tenants of master metered facilities. Tenant Notification charge for each apartment unit to recover expenses incurred each time a tenant in a master metered facility is notified of either impending disconnection for nonpayment of the electric service or of actual disconnection.	[Insert pass through charge from TDSP] \$25.00 to meet Subst. R. 25.483 minimum. \$10.00 per add'n'l 5 notices per 50 units over 100 units
Late fees will be assessed on the seventeenth (17 th) day after the bill issuance for all unpaid balances, including pay-in-advance billing. Payment arrangements are delinquent and will be assessed late fees if not paid by the date pursuant to a negotiated payment plan. <i>Late fees may not be assessed against a customer with a peak demand of less than 50 kW.</i>	5% assessed on the late payment amount
Out-of-cycle meter reading charge may be charged if you request an out-of-cycle meter reading:	
During regular hours	[Insert pass through charge

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Figure: 16 TAC §25.43(f)(1)(B)

Service Charges and Fees	Amount
	from TDSP]
Outside regular working hours – Non-holiday	[Insert pass through charge from TDSP]
Outside regular working hours – Holidays	[Insert pass through charge from TDSP]
Reread request charge for each request by a customer to obtain meter readings in addition to the normal cycle readings.	[Insert pass through charge from TDSP]
Processing fee for renegotiation of a payment plan. This fee applies if you request renegotiations more than once in any 30-day period. In addition, you may be required to pay the appropriate amount to the Company to reconcile your account balance.	\$10.00
Return check charge for each check returned for insufficient funds. This charge will be imposed for each returned check (or for any bill payment method that results in a notice of insufficient funds from the customer’s financial institution.)	\$25.00
Tampering charge for unauthorized reconnection of service, tampering with the electric meter, theft of electric service by any person on customer’s premise, or evidence thereof, at Customer’s premise. Additional charges for repair, replacement, relocation of equipment and estimated amount of electric service not recorded may also be billed to you.	[Insert pass through charge from TDSP]
Disconnection Reminder Notification charge for notifying customers that disconnection of service may be in progress. This notification may be made by telephone, electronically or by any means of communication appropriate for the customer.	\$5.00
POLR Provider reserves the right to charge for incurred court costs, legal fees and miscellaneous costs associated with legal action as a result of maintaining customer accounts.	
POLR Provider reserves the right to charge for services, requested by you, that are rendered on your behalf after your approval of disclosed charges for those services, as well as the right to pass through tariff charges for services rendered by the TDSP and billed to POLR Provider.	

4. DISCONNECTION OF SERVICE

Disconnection means a physical interruption of electric service. Disconnection is subject to the rules of the PUCT.

- a) Your account will be considered delinquent if your monthly bill or pay-in-advance bill is not paid on or before the 16th day after issuance of the bill. If your account becomes delinquent, your service may be disconnected 10 days after notice is issued.
- b) Your service may be disconnected after you are notified of your failure to comply with the terms of this TOSA or any payment plan.
- c) Service may not be reconnected until all delinquent amounts and charges owned to POLR Provider have been paid.
- d) Your service may be disconnected without notice if a dangerous or hazardous condition exists, if the service has been connected without proper authority or for the reasons prescribed in the PUCT Substantive Rules. Service will not be reconnected until the dangerous or hazardous condition has been corrected.
- e) If you choose to cancel service under this TOSA, your service will be disconnected unless you have made arrangements with another retail electric provider and a switch of provider has been successfully completed by the Registration Agent by the date you choose to cancel service. You will be responsible for any charges pursuant to section 1 **PRICE FOR BASIC FIRM SERVICE**, section 2 **SECURITY AND**

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Figure: 16 TAC §25.43(f)(1)(B)

BILLING and section 3 **SERVICE CHARGES AND FEES** of this agreement up to the date you choose to cancel service or the date you switch electric service to another REP, whichever is later.

- f) A disconnection notice may be issued concurrently with the written requests for either the initial or additional cash deposit or with a pay-in-advance in lieu of cash deposit billing.
- g) A disconnection notice may be issued concurrently with your pay-in-advance billing or cash deposit billing.
- h) Your service may be disconnected for failure to pay an initial pay-in-advance bill, or monthly pay-in-advance bill, or cash deposit bill.-
- i) POLR Provider cannot disconnect your electric service until you are a customer of the POLR Provider.

5. CUSTOMER INFORMATION

You will be required to provide a Federal tax identification (I.D) number, a social security number, a valid driver's license number or other verifiable means of personal identification in order to allow verification of changes you request in services from POLR Provider.

You authorize the TDSP, any previous retail electric provider, or the Independent Organization to provide information to POLR Provider including, but not limited to: previous billings and usage of electricity, meter readings and types of service received, credit history, any records of tampering, and other names in which service has been provided, social security number, contact telephone number(s), tax ID or driver's license number, etc.

You authorize POLR Provider to release your customer payment information to credit reporting agencies, regulatory agents, agents of POLR Provider, energy assistance agencies, law enforcement agencies or the TDSP.

You authorize POLR Provider to use credit-reporting agencies to evaluate your credit history.

6. LENGTH OF AGREEMENT

NOTICE: POLR PROVIDER CANNOT REQUIRE THAT YOU SIGN UP FOR A MINIMUM CONTRACT TERM AS A CONDITION OF PROVIDING SERVICE.

No term of service is required under this agreement unless by mutual agreement a term is agreed to in writing between you and POLR Provider or unless you enter an agreed payment plan requiring a minimum term.

7. (insert and renumber if greater than or equal to 50 kW customer class: WAIVER OF CERTAIN CUSTOMER PROTECTION RULES)

For the small non-residential greater than or equal to 50 kW customer class, the following Customer Protection Rule provisions contained within Subchapter R of this chapter shall be deemed waived by the execution of this Standard Terms of Service:

(insert list of potentially waived customer protection rules).

8.7. END OF POLR TERM

POLR Provider's standard terms of service and obligations to offer the POLR rate specified under subsection 2, PRICE FOR BASIC FIRM SERVICE, will expire on [insert last date of POLR term]. At least 60 days before that date, POLR Provider will provide you notice of available options for securing electric service after POLR's existing term has expired. If you obtain electric service from a provider other than POLR Provider, your final bill from POLR Provider will be offset against your deposit and any remaining balance will be refunded to you within 20 days from the final meter read date.

~~98.~~ CONTACT INFORMATION

Name of Provider:
Physical Address:

Certificate Number:
Customer Assistance:
Contact hours
24-Hour Power Outage:
Fax:
Internet web-site:

You may contact POLR Provider if you have a dispute concerning your bill or your service from POLR Provider. You must provide, in writing, within ten business days of the invoice date your reasons for disputing the invoice. You will be obligated to pay the undisputed portion of the bill and the POLR may pursue disconnection of service for nonpayment of the undisputed portion after appropriate notice. In the event that you give timely notice of a dispute, you and the POLR Provider shall, for a period of 30 calendar days following the POLR Provider's receipt of the notice, pursue diligent, good faith efforts to resolve the dispute. Following resolution of the dispute, any amount found payable by either party shall be paid within ten business days. Complaints regarding your service may also be directed to the Public Utility Commission, 1-888-782-8477 (toll free).

~~109.~~ BILL PAYMENT METHODS

You may pay for your electric service by personal or cashier's check, money order, electronic funds transfer, [*Insert if offered by POLR Provider (optional): in cash through an agent authorized by the POLR Provider*], or automatic draft from your financial institution. If you choose to make payment via electronic funds transfer or automatic draft, you must contact POLR Provider's Customer Service number to begin those options for bill payment at no cost. Regardless of the payment method you select, all payments must be made within (16 calendar days of bill issuance. If payments are not received by POLR Provider by the end of the day on the due date, the bill will be considered delinquent and a late fee of 5% will be applied to all unpaid balances including pay-in-advance. Late fees may not be assessed against a customer with a peak demand of less than 50 kW.

If you have had two or more personal checks returned for insufficient funds within the last 12 months, POLR Provider will require all further payments for electric service to be by cash, cashier's check, or money order.

~~11.10.~~ FORCE MAJEURE

POLR Provider shall not be liable in damages for any act or event that is beyond its control including but not limited to, an act of God, act of the public enemy, war, insurrection, riot, fire, explosion, labor disturbance or strike, terrorism, wildlife, accident, breakdown or accident to machinery or equipment, or a valid curtailment order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities, including any directive of the independent organization, and performance or nonperformance by the TDSP.

~~12.11.~~ LIMITATION OF LIABILITY AND INDEMNITY

POLR PROVIDER DOES NOT GENERATE YOUR ELECTRICITY, NOR DOES POLR PROVIDER TRANSMIT OR DISTRIBUTE ELECTRICITY TO YOU. POLR PROVIDER WILL NOT BE LIABLE FOR FLUCTUATIONS, INTERRUPTIONS OR IRREGULARITIES IN BASIC FIRM SERVICE. LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES. NEITHER YOU NOR THE POLR PROVIDER SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE.

~~13.12.~~ REPRESENTATIONS AND WARRANTIES

POLR PROVIDER WARRANTS THAT THE ELECTRICITY SOLD UNDER THIS AGREEMENT WILL BE “BASIC FIRM SERVICE” AS THAT TERM IS DEFINED IN PUCT SUBSTANTIVE RULE 25.43(c)(3), TO WIT “ELECTRIC SERVICE NOT SUBJECT TO INTERRUPTION FOR ECONOMIC REASONS AND THAT DOES NOT INCLUDE VALUE ADDED OPTIONS OFFERED IN THE COMPETITIVE MARKET. BASIC FIRM SERVICE EXCLUDES, AMONG OTHER COMPETITIVELY OFFERED OPTIONS, EMERGENCY OR BACK-UP SERVICE, AND STAND-BY SERVICE.”

POLR PROVIDER MAKES NO OTHER WARRANTIES WHATSOEVER WITH REGARD TO THE PROVISION OF ELECTRIC SERVICE AND DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

14.13. DISCRIMINATION

POLR Provider will not refuse to provide electric service or otherwise discriminate in the provision of electric service to any customer based on race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, disability, familial status, level of income, location of customer in an economically distressed geographic area, or qualification for low-income or energy efficiency services.

You have the right to cancel this agreement (Standard Terms of Service ~~Agreement~~) for electric service without penalty or fee of any kind for a period of three federal business days after you have received the Standard Terms of Service. You may cancel your service and this agreement by calling the toll free Customer Service number during the hours stated in this Standard Terms of Service Agreement. Service may also be cancelled by toll-free fax or e-mail. *Canceling this service agreement will result in disconnection of service if you have not made arrangements for alternative supply*

Standard Terms of Service ~~Agreement~~

[Insert POLR Provider Name] (Certificate No. ____)

Provider of Last Resort (POLR) Large Non-Residential Service (> one megawatt)

This Standard Terms of Service (~~STOS~~)~~Agreement (TOSA)~~ applies to Large Non-Residential customers receiving Provider of Last Resort (POLR) service from pursuant to Public Utility Commission of Texas (PUCT) Retail Electric Provider (REP) Certificate No. _____. These standard terms of service are subject to certain current and future customer protection laws or rules as prescribed by local, state or federal authorities and to changes in applicable charges or transmission and distribution service provider (TDSP) rates. Customers will be notified of changes in applicable charges or TDSP rates, except for changes in the price for basic firm service as described below, at least ~~45~~30 days before such changes take effect, unless otherwise directed by law. Each TOSA will be given a unique version number for quick reference.

1. PRICE FOR BASIC FIRM SERVICE.

POLR Provider will provide basic firm service, defined as electric service not subject to interruption for economic reasons and that does not include value-added options offered in the competitive market. ~~[INSERT EITHER OPTION A OR OPTION B BELOW]~~

~~OPTION A.~~—The price for your electric service from POLR Provider will be derived from the following formula:

POLR rate (in cents/kWh) = (X% * MCPE Shaped by ERCOT Load Profile for Time Customer was Served Shaped by ERCOT Load Profile * Customer's Metered Usage) + (Monthly Customer Charge or Demand Charge) + (TDSP Charges)

Where the "MCPE Shaped by ERCOT Load Profile for Time Customer was Served Shaped by ERCOT Load Profile" is a weighted average defined per Weather Zone and Congestion Zone, and is reported on the ERCOT website, as:

$$\sum_{\text{All Intervals}} \left(\frac{\text{15 Minute Interval Load Based on Appropriate Customer Class Profile}}{\text{Sum of Interval Load for Time Customer is on POLR}} \right) * \text{Corresponding 15 Minute Zonal MCPE}$$

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~~consist of an energy charge, [INSERT IF APPLICABLE: demand charge], [INSERT IF APPLICABLE: monthly customer charge], and non-bypassable charges as described below. [PAY IN-ADVANCE LANGUAGE TO BE INCLUDED IN TERMS OF SERVICE AT THE OPTION OF POLR PROVIDER: These charges may be applied in a pay-in-advance manner as described in section 2 SECURITY AND BILLING.]~~

~~**Energy charge** = [INSERT EITHER: "[INSERT APPLICABLE FIGURE] % of market clearing price of energy (MCPE) for each 15-minute settlement interval for customers in ERCOT" OR "[INSERT APPLICABLE FIGURE] % of market-based reference price as specified by the PUCT."]~~

~~[INSERT IF APPLICABLE: Demand charge = _____]~~

~~The demand charge is calculated based on the customer's highest billing demand in any interval within the current billing period.~~

~~[INSERT IF APPLICABLE: Monthly customer charge = _____]~~

~~OPTION B. Rate = 150% of the greater of \$7.25 per megawatt hour or the MCPE or the market-based price as specified by the PUCT and a monthly customer charge of \$2897.00.~~

~~Non-bypassable charges billed to POLR Provider that will be added to the prices above include: Transmission and Distribution Service Provider's (TDSP) wires usage and miscellaneous discretionary charges, transition to competition charges (CTC), system benefit fund (SBF) payments, taxes or charges from various taxing or regulatory authorities including POLR Provider's Gross Receipts tax, and other non-by-passable charges.~~

Non-recurring charges will be billed as they are incurred and are set out in section 3 **SERVICE CHARGES AND FEES** below.

2. SECURITY AND BILLING

[PAY-IN-ADVANCE LANGUAGE TO BE INCLUDED IN STANDARD TERMS OF SERVICE AT THE OPTION OF POLR PROVIDER] POLR Provider will offer the option to either pay a cash deposit to prevent disconnection after POLR provider has begun providing your electric service, secure your service pursuant to subsection (a) CASH DEPOSIT or to choose **PAY-IN-ADVANCE BILLING OPTION IN LIEU OF CASH DEPOSIT** pursuant to subsection (b). You will either be required to pay a cash deposit or be subject to pay-in-advance billing.]

POLR Provider has no obligation to continue to serve you if you fail to pay the required cash deposit within the appropriate time frame [or to accept pay-in-advance billing.]

a) CASH DEPOSIT

If service is initiated under option (a) **CASH DEPOSIT** you will be billed monthly for your electric service after the scheduled monthly meter read date. The monthly billing period will be approximately 30 days. Your bill will be due upon receipt and will be considered delinquent if it is not paid by the sixteenth (16th) day after issuance of the bill. The late payment fee (5%) will be **assessed on the seventeenth (17th) day after the bill issuance for all unpaid balances.** Disconnection of service may result upon non-payment of a bill pursuant to section 4 **DISCONNECTION OF SERVICE.**

- 1) If your service is initiated with POLR Provider by paying a cash deposit, you will be required to pay the initial cash deposit or letter of credit after POLR Provider receives confirmation from the Registration Agent of the effective date you are to become a customer of POLR Provider. Cash deposits required for POLR service shall be equivalent to the estimated billing for a three-month period, including, where applicable, customer and non-bypassable charges, and energy and demand charges determined based on your three highest months of usage and demand during the most recent 12-month period.
- 2) If historical usage is not available, POLR Provider in its sole judgment may develop reasonable good faith estimates to determine your cash deposit amount. Estimates will be based on key

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Figure: 16 TAC §25.43(f)(1)(C)

energy determinants and electric equipment, including, but not limited to: square footage, HVAC type and size, type of business, hours of operation, standard industry load factor assumptions, etc. Other non-discriminatory methods of determining creditworthiness may be used.

- 3) You may also be required, in the future, to pay an additional cash deposit if you have been issued a disconnection notice or if you have been a customer for three months and you have used more than the amount estimated to determine your initial cash deposit.
- 4) You will accrue interest on your deposit with POLR Provider. Each year in December, the PUCT establishes the interest rate the POLR Provider will apply to your cash deposit for the next calendar year.
- 5) You may satisfy security requirements by providing POLR Provider with a surety bond or an irrevocable letter of credit in the amount of the required cash deposit. The surety bond must be approved by the POLR provider. The required security must be provided within ten days after a notice is issued to you requesting a cash deposit.
- 6) If not previously returned to you, your cash deposit and accrued interest, less any outstanding balance owed for electric service, will be refunded to you upon closing of your account with POLR Provider.
- 7) If your service is terminated prior to the regularly scheduled meter read date, the energy usage for the final bills may be calculated using the out of cycle meter readings and will include all charges defined in section 1. Price for Basic Firm Service.
- 8) POLR Provider will require payment of the initial cash deposit within ten days of receiving confirmation from the Registration Agent of the effective date you become a customer of the POLR.
- 9) Your service may be disconnected if you fail to pay the required cash deposit (initial or additional) within ten days of issuance of a notice of disconnection of service.

b) [PAY-IN-ADVANCE LANGUAGE TO BE INCLUDED IN STANDARD TERMS OF SERVICE AT THE OPTION OF POLR PROVIDER] PAY-IN-ADVANCE BILLING OPTION IN LIEU OF CASH DEPOSIT

- 1) If your POLR electric service is initiated by pay-in-advance, you will be billed in advance for your electric service after POLR Provider receives confirmation from the Registration Agent of the effective date you are to become a POLR customer of POLR Provider. All bills will include the monthly customer charge, demand charge, energy charge, and an estimate of two months' non-bypassable charges, applicable fees, taxes, service charges and other costs as permitted by governmental or regulatory authorities.
- 2) Your initial pay-in-advance billing will include, where applicable, charges for two months, based on historical demand ~~(the highest demand recorded for your service in the prior 12 months) plus an energy charge (based on your kWh consumption for the highest two months during the prior year)~~ and will be due within ten days of issuance of the notice requiring a pay-in-advance billing
- 3) Pay-in-advance billing requires that you maintain a balance of the two-month initial total estimated charges for the time that you are a POLR customer and will be billed monthly on approximately 30-day periods.
- 4) Your bill will be due upon receipt and will be considered delinquent if it is not paid by the 16th calendar day after issuance of the bill.
- 5) If your pay-in-advance billing exceeds the initial pay-in-advance amount, then the pay-in-advance billing amount will be reset to that amount for the next billing cycle.
- 6) There is no interest accrued on pay-in-advance billing.
- 7) If historical usage is not available, POLR Provider in its sole judgment may develop reasonable good faith estimates to determine your billing and establish a pay-in-advance billing amount accordingly. Estimates will be based on key energy determinants and electric equipment including, but not limited to: square footage, HVAC type and size, type of business, hours of operation, standard industry load

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Figure: 16 TAC §25.43(f)(1)(C)

factor assumptions, etc. Once there is an established history of three months usage, POLR Provider will review the pay-in-advance amount and adjust it if necessary. If at any time the sum of your two highest monthly bills exceeds the pay-in-advance amount, the pay-in-advance amount may be adjusted accordingly.

- 8) Billing statements will reflect the total charges for POLR services provided by POLR Provider.
- 9) Your service may be disconnected if you fail to pay the required pay-in-advance bill within ten days of issuance of a notice of disconnection of service.

3. SERVICE CHARGES AND FEES

You will be subject to the following charges and fees in addition to the rates for service prescribed in section 1 **PRICE FOR BASIC FIRM SERVICE**. These fees will be billed for each premise. “Premise” herein shall mean the designated property or facilities and associated metered account identified by an Electric Service Identifier Number (ESI ID), which is a unique and permanent identifier assigned to each service point.

Service Charges and Fees	Charge or Fee
Account Reinstatement fee for handling accounts for reconnection after disconnection for non-payment. This is in addition to any applicable disconnect or reconnect charges.	\$ 50.00
Account History charge if you request and are provided a service point usage history for more than the most recent 12 months or if a 12-month history is requested more than once within a 12-month period.	\$ 25.00
Collection Letter charge for processing a registered or certified letter demanding payment of past due accounts or drawing on your letter of credit.	\$15.00
Drawing on irrevocable letter of credit includes all of the activities required to present a drawing letter to your bank.	\$150.00 plus any fees imposed by financial institution
Disconnection charge for disconnection of service pursuant to Transmission and Distribution Service Provider’s (TDSP) tariffs, including charges that may be assessed by the TDSP for scheduling a disconnection that is canceled.	[Insert pass through charge from TDSP]
Equipment charge for providing testing, monitoring or other special equipment at the request of the customer.	[Insert pass through charge from TDSP]
Field Collection charge for each trip to a customer’s premise to collect an amount that is past due when the customer requests the trip.	\$10.00 / ESI ID
Field Service Calls for each trip to the customer’s premise to provide non-competitive services such as billing and outage-related inquiries, as requested and approved by the customer after trip charges are disclosed. A four hour minimum will be billed for each customer requested Field Service Call and includes travel and incidental expenses with the field service call.	\$200.00/hour
Late fees will be assessed on the seventeenth (17 th) day after the bill issuance for all unpaid balances, including pay-in-advance billing. Payment arrangements are delinquent and will be assessed a late fee if not paid by the date pursuant to a negotiated payment plan.	5% assessed on the late payment amounts
Master Contracts <ul style="list-style-type: none"> ▪ Set-up fee per new or transferred contract ▪ Additional fee per each unit placed on a master contract, added to an existing contract or transferred 	\$25.00 \$ 5.00
Master Metered Facilities:	

Public Utility Commission of Texas
Figure: 16 TAC §25.43(f)(1)(C)

Service Charges and Fees	Charge or Fee
<p>Master Metered Tenant charge for facilities may be assessed to recover costs associated with installing, maintaining, testing, reading or other costs incurred by POLR Provider for rendering electric service to tenants of master metered facilities.</p> <p>Tenant Notification charge for each apartment unit to recover expenses incurred each time a tenant in a master meter facility is notified of either impending disconnection for nonpayment of the electric service or of actual disconnection.</p>	<p>[Insert pass through charge from TDSP]</p> <p>\$25.00 to meet Subst. R. 25.483 minimum. \$10.00 per addn'l 5 notices per 50 units over 100 units</p>
<p>Out-of-cycle meter reading charge may be charged if you request an out-of-cycle meter reading.</p>	
<p>During regular hours</p>	<p>[Insert pass through charge from TDSP]</p>
<p>Outside regular working hours – Non-holiday</p>	<p>[Insert pass through charge from TDSP]</p>
<p>Outside regular working hours – Holidays</p>	<p>[Insert pass through charge from TDSP]</p>
<p>Reread request charge for each request by a customer to obtain meter readings in addition to the normal cycle readings.</p>	<p>[Insert pass through charge from TDSP]</p>
<p>Return check charge for each check returned for insufficient funds. This charge will be imposed for each returned check (or for any bill payment method that results in a notice of insufficient funds from the customer's financial institution.)</p>	<p>\$ 25.00</p>
<p>Unmetered Guardlight/Security lighting charge applies to existing guardlights or security lighting.</p>	<p>[Insert applicable \$/kWh charge equivalent to 125% of former applicable PTB tariff for unmetered guardlight/security lighting]</p>
<p>Tampering charge for unauthorized reconnection of service, tampering with the electric meter, theft of electric service by any person on customer's premise, or evidence thereof, at customer's premise. Additional charges for repair, replacement, relocation of equipment and estimated amount of electric service not recorded may also be billed.</p>	<p>[Insert pass through charge from TDSP]</p>
<p>Disconnection Reminder Notification charge for notifying customers that disconnection of service may be in progress. This notification may be made by telephone, electronically or by any other means of</p>	<p>\$5.00</p>

Service Charges and Fees	Charge or Fee
communication appropriate for the customer.	
POLR Provider reserves the right to charge for court costs, legal fees and other costs associated with collection of delinquent amounts and miscellaneous legal costs associated with maintaining the account.	
POLR Provider reserves the right to charge for services, requested by you, that are rendered on your behalf after your approval of disclosed charges for those services, as well as the right to pass through tariff charges for services rendered by the TDSP and billed to POLR Provider.	

4. DISCONNECTION OF SERVICE

Disconnection means a physical interruption of electric service. Disconnection is subject to the rules of the PUCT.

- a) Your account will be considered delinquent if payment for your monthly bill or pay-in-advance billing is not paid on or before the 16th day after issuance of the bill. If your account becomes delinquent, your service may be disconnected ten days after notice is issued.
- b) Your service may be disconnected for failure to pay cash deposit as well as pay in advance. Your service may be disconnected after you are notified of your failure to comply with the terms of this TOSA or any payment plan.
- c) Service may not be reconnected until all delinquent amounts and charges owed to POLR Provider have been paid. Upon receipt of all amounts and charges owed service may not be reconnected immediately and is dependent upon TDSP scheduling.
- d) Your service may be disconnected without notice if a dangerous or hazardous condition exists, if the service has been connected without proper authority or for the reasons prescribed in the PUCT Substantive Rules. Service will not be reconnected until the dangerous or hazardous condition has been corrected.
- e) If you choose to cancel service under this TOSA, your service will be disconnected unless you have made arrangements with another retail electric provider and a switch to the new provider has been successfully completed by the Registration Agent by the date you choose to cancel service. You will be responsible for any charges pursuant to section 1 **PRICE FOR BASIC SERVICE**, section 2 **SECURITY AND BILLING** and section 3 **SERVICE CHARGES AND FEES** of this agreement up to the date you choose to cancel service or the date you switch electric service to another REP, whichever is later.
- f) A disconnection notice may be issued concurrently with the written requests for either the initial or additional cash deposit or with a pay-in-advance in lieu of cash deposit billing.
- g) A disconnection notice may be issued concurrently with your pay-in-advance or cash deposit billing.
- h) Your service may be disconnected for failure to pay an initial pay-in-advance bill or monthly pay-in-advance bill.
- i) POLR Provider cannot disconnect your electric service until you are a customer of the POLR Provider.

5. CUSTOMER INFORMATION

You will be required to provide a legal name, Federal tax identification (I.D.) number, a social security number, a valid driver’s license number or other verifiable means of identification in order to allow verification of changes you request in services from POLR Provider.

You authorize the TDSP, any previous retail electric provider, or the Independent Organization to provide information to POLR Provider including but not limited to previous billings and usage of electricity, meter readings and types of service received, credit history, any records of tampering, other names in which service has been provided, social security number, contact telephone number(s), tax ID or driver’s license number, etc.

Public Utility Commission of Texas
Figure: 16 TAC §25.43(f)(1)(C)

You authorize POLR Provider at POLR Providers discretion to release your customer payment information to credit reporting agencies, regulatory agents, agents of POLR Provider, energy assistance agencies, law enforcement agencies or the TDSP.

You authorize POLR Provider to use credit-reporting agencies to evaluate your credit history.

6. LENGTH OF AGREEMENT

NOTICE: POLR PROVIDER CANNOT REQUIRE THAT YOU SIGN UP FOR A MINIMUM CONTRACT TERM AS A CONDITION OF PROVIDING SERVICE.

Subject to the advance payment provisions described in section 2, no term of service is required under this TOSA unless by mutual agreement a term is agreed to in writing between you and POLR Provider or if you enter an agreed payment plan requiring a minimum term.

7. END OF POLR TERM

POLR Provider's standard terms of service and obligations to offer the POLR rate specified under section 1, PRICE FOR BASIC FIRM SERVICE, will expire on *[insert last date of POLR term]*. At least 60 days before that date, POLR Provider will provide you notice of available options for securing electric service after POLR's existing term has expired. If you obtain electric service from a provider other than POLR Provider, your final bill from POLR Provider will be offset against your deposit and any remaining balance will be refunded to you within 20 days from the final meter read date.

8. CONTACT INFORMATION

Name of Provider:
Physical Address:

Certificate Number:
Customer Assistance:
Contact hours:
24-Hour Power Outage:
Fax:
Internet web-site:

You may contact POLR Provider if you have a dispute concerning your bill or your service from POLR Provider. You must provide, in writing, within ten business days of the invoice date your reasons for disputing the invoice. You will be obligated to pay the undisputed portion of the bill and the POLR may pursue disconnection of service for nonpayment of the undisputed portion after appropriate notice. In the event that you give timely notice of a dispute, you and the POLR Provider shall, for a period of 30 calendar days following the POLR Provider's receipt of the notice, pursue diligent, good faith efforts to resolve the dispute. Following resolution of the dispute, any amount found payable by either party shall be paid within ten business days.

Complaints regarding your service may also be directed to the Public Utility Commission, 1-888-782-8477 (toll free). Complaints directed to the Public Utility Commission do not relieve customer's obligation to pay in full within 16 days .

9. BILL PAYMENT METHODS

You may pay for your electric service by personal or cashier's check, money order, electronic funds transfer, automatic draft from your financial institution or in cash through a company authorized agent. If you choose to make payment via electronic funds transfer or automatic draft, you must contact POLR Provider' Customer Service

Public Utility Commission of Texas
Figure: 16 TAC §25.43(f)(1)(C)

number above to begin those options for bill payment at no cost. Regardless of the payment method you select, all payments must be made within 16 calendar days of bill issuance. If POLR Provider does not receive payments by the end of the day on the due date, the bill will be considered delinquent and a late fee of 5% will be applied to all unpaid balances including pay-in-advance.

If you have had two or more personal checks returned for insufficient funds within the past 12 months, POLR Provider will require all further payments for electric service to be by cash, cashier's check or money order.

10. FORCE MAJEURE

POLR Provider shall not be liable in damages for any act or event that is beyond its control including but not limited to, an act of God, act of the public enemy, war, insurrection, riot, fire, explosion, labor disturbance or strike, terrorism, wildlife, accident, breakdown or accident to machinery or equipment, or a valid curtailment order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities, including any directive of the independent organization, and performance or nonperformance by the TDSP.

11. LIMITATION OF LIABILITY AND INDEMNITY

POLR PROVIDER DOES NOT GENERATE YOUR ELECTRICITY. NOR DOES POLR PROVIDER TRANSMIT OR DISTRIBUTE ELECTRICITY TO YOU. POLR PROVIDER WILL NOT BE LIABLE FOR CONSEQUENTIAL, FLUCTUATIONS, INTERRUPTIONS OR IRREGULARITIES IN BASIC FIRM SERVICE. LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES. NEITHER YOU NOR THE POLR PROVIDER SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE.

12. REPRESENTATIONS AND WARRANTIES

POLR PROVIDER WARRANTS THAT THE ELECTRICITY SOLD UNDER THIS AGREEMENT WILL BE "BASIC FIRM SERVICE" AS THAT TERM IS DEFINED IN PUCT SUBST.R. 25.43(c)(3), TO WIT "ELECTRIC SERVICE NOT SUBJECT TO INTERRUPTION FOR ECONOMIC REASONS AND THAT DOES NOT INCLUDE VALUE ADDED OPTIONS OFFERED IN THE COMPETITIVE MARKET. BASIC FIRM SERVICE EXCLUDES, AMONG OTHER COMPETITIVELY OFFERED OPTIONS, EMERGENCY OR BACK-UP SERVICE, AND STAND-BY SERVICE."

POLR PROVIDER MAKES NO OTHER WARRANTIES WHATSOEVER WITH REGARD TO THE PROVISION OF ELECTRIC SERVICE AND DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

13. DISCRIMINATION

POLR Provider will not refuse to provide electric service or otherwise discriminate in the provision of electric service to any customer based on race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, disability, familial status, level of income, location of customer in an economically distressed geographic area, or qualification for low-income or energy efficiency services.

You have the right to cancel this agreement (Standard Terms of Service ~~Agreement~~) for electric service without penalty or fee of any kind for a period of three federal business days after you have received the Standard Terms of

Public Utility Commission of Texas

Figure: 16 TAC §25.43(f)(1)(C)

Service. You may cancel your service and this agreement by calling the toll free Customer Service number during the hours stated in this Standard Terms of Service ~~Agreement~~. Service may also be cancelled by toll-free fax or e-mail. *Canceling this service agreement will result in disconnection of service if you have not made arrangements for alternative supply.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 27th DAY OF FEBRUARY 2006 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

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