

PROJECT NO. 37070

RULEMAKING PROCEEDING TO § PUBLIC UTILITY COMMISSION
ADOPT COMMON TERMS USED IN §
BILLING TELECOMMUNICATIONS § OF TEXAS
AND ELECTRIC CUSTOMERS §

PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.25 AND §25.479
AS APPROVED AT THE JULY 30, 2009 OPEN MEETING

The Public Utility Commission of Texas (commission) proposes an amendment to §25.25 of this title, relating to Issuance and Format of Bills and §25.479 of this title, relating to Issuance and Format of Bills. The amendments will implement certain provisions of Texas House Bill 1822, 81st Leg. (2009) (HB 1822), Public Utilities Regulatory Act (PURA) §§17.003(c), 17.004(a), and 17.102, pertaining to a list of defined terms common to the electric industry and Texas House Bill 1799, 81st Leg. (2009) (HB 1799), PURA §39.116 pertaining to notice regarding customer choice information. The proposed rule, if adopted, would require electric service providers to use specific defined terms in billing their customers and require that information concerning the customer-information website operated by the commission be included on customer bills. The defined terms in this amendment use “charge” to define amounts applied at the discretion of the electric utility and the retail electric provider, “fee” to define amounts that are designated by a governmental agency to be used for a specific, and “tax” to define amounts that are designated by a governmental agency without a designated purpose. The amendment is a competition rule subject to judicial review as specified in PURA §39.001(e). Project Number 37070 is assigned to this proceeding.

Ernest Garcia, Retail Market Analyst, Competitive Markets Division has determined that for each year of the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Mr. Garcia has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be that electric customers will have a clearer understanding of charges on their bills. The amendment is also proposed to implement certain provisions of HB 1822 and HB 1799. There may be economic costs to persons who are required to comply with the amendment. These costs are associated with the modifications to company billing systems and are likely to vary from business to business and are difficult to ascertain but, they are not anticipated to be significant. However, it is believed that the benefits accruing from implementation of the amendment will outweigh these costs. These costs may result in an adverse economic effect on approximately thirty small businesses or micro-business that are retail electric providers (REPs). The commission considered proposing a more extensive list of required terms, but concluded that benefits to customers of a requiring a more extensive list would probably be greater than the implementation costs to electric service providers. HB 1822 includes a deadline for adoption of a rule of December 1, 2009, so the commission has not had time to conduct an extensive evaluation of the costs and benefits of various alternatives. It requests that parties that comment on the proposed rule address the question of costs and benefits of this proposal and any alternatives that are recommended in their comments.

Ernest Garcia, Retail Markets Analyst, Competitive Markets Division has also determined that for each year of the first five years the amendment 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 Wednesday, October 7, 2009. The request for a public hearing must be received within 30 days after publication.

Initial comments on the 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 31 days after publication and reply comments may be submitted within 45 days after publication. Sixteen copies of comments on the amendment are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the amended rules. All comments should refer to Project Number 37070.

These amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2008) (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; and specifically, PURA §17.001, which directs the commission to adopt and enforce customer protection rules; §17.003(c), , which requires the commission to

require electric service providers to give clear and understandable information to customers about rates and to use a list of defined terms; §17.004(a), which provides that customers are entitled to bills that are presented in clear, readable and easy-to-understand language that uses terms defined in the rules adopted under §17.003; §17.102, which directs the commission to adopt and enforce rules requiring that charges on an electric service provider's bill be clearly and easily identified, using terms defined in the rules adopted under §17.003; and §39.101, which authorizes the commission to adopt and enforce rules to ensure that REPs' bills are presented in a clear format and in understandable language.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 17.001 17.003(c), 17.004(a), 17.102 and 39.101.

§25.25. Issuance and Format of Bills.

(a) **Frequency of bills.** ~~An~~The electric utility shall issue bills monthly, unless otherwise authorized by the Public Utility Commission~~commission~~, or unless service is provided for a period less than one month. Bills shall be issued as promptly as possible after reading meters.

(b) (No change.)

(c) **Bill content.** Each customer’s bill shall include all the following information:

(1) - (8) (No change.)

(9) To the extent that a utility applies a charge to the customer’s bill that is consistent with one of the terms set out in this paragraph, the term shall be used in identifying charges on customer’s bills, and the definitions in this paragraph shall be easily located on the utility’s website. A utility may not use a different term for a charge that is defined in this paragraph.

(A) ~~Advanced metering charge~~ -- ~~A charge to recover the costs of an advanced metering system;~~

(B) ~~Energy Charge~~ -- ~~Any charge, other than a tax or other fee, that is assessed on the basis of the customer’s energy consumption.~~

(C) ~~Energy Efficiency Cost Recovery Factor - A charge approved by the Public Utility Commission to recover the electric utility’s cost of providing energy efficiency programs.~~

(D) ~~Fuel Charge~~ -- ~~A charge approved by the Public Utility Commission for the recovery of the utility’s costs for the fuel used to generate electricity.~~

Formatted: Font color: Black

(E) Meter Number -- The number assigned by the utility to the customer's meter.

Formatted: Indent: Left: 1", Hanging: 0.5"

(F) Meter Charge -- A charge approved by the Public Utility Commission for metering a customer's consumption.

(G) Miscellaneous Gross Receipts Fee -- A fee assessed to recover the miscellaneous gross receipts tax imposed on utilities operating in an incorporated city or town having a population of more than 1,000.

(H) Municipal Franchise Fee -- A fee assessed to compensate municipalities for the utility's use of public rights-of-way.

(I) Nuclear Decommissioning Fee -- A charge approved by the Public Utility Commission to provide funds for decommissioning of nuclear generating sites.

(J) PUC Assessment -- A fee assessed to recover the statutory fee for administering the Public Utility Regulatory Act.

(K) Sales tax -- Sales tax collected by a customer's city;

(10) To the extent that a utility uses the concepts identified in this paragraph in a customer's bill, it shall use the term set out in this paragraph, and the definitions in this paragraph shall be easily located on the utility's website. A utility may not use a different term for a charge that is defined in this paragraph.

Formatted: Indent: Hanging: 0.5"

(A) Current Meter Read -- The meter reading at the end of the period for which the customer is being billed;

(B) kW -- Kilowatt, the standard unit for measuring electricity demand, equal to 1,000 watts;

- (C) kWh – Kilowatt-hour, the standard unit for measuring electricity energy consumption, equal to 1,000 watt-hours; and
- (D) Previous Meter Read -- The reading on the beginning the period for which the customer is being billed.

(d) - (f) (No change.)

§25.479. Issuance and Format of Bills.

(a) - (b) (No change.)

(c) **Bill content.**

(1) Each customer's bill shall include the following information:

(A) The certified name and address of the REP and the number of the license issued to the REP by the Public Utility Commission~~commission~~;

(B) - (G) (No change.)

(H) The current charges for electric service as disclosed in the customer's terms of service document, including applicable taxes, and fees labeled "total current charges";

(I) ~~A~~exclusive of applicable taxes, and a separate calculation of the average unit price of the current charge for electric service for the current billing period, labeled, "The average price you paid for electric service this month." This calculation shall reflect all fixed and variable recurring charges, but not include any nonrecurring charges or credits, which is expressed as a cents per kilowatt-hour amount rounded to the nearest one-tenth of one cent. If the customer is on a level or average payment plan, the level or average payment should be clearly shown in addition to the usage-based rate;

(J)~~(J)~~ The identification and itemization of charges other than for electric service as disclosed in the customer's terms of service document;

(K)~~(K)~~ The itemization and amount included in the amount due for any non-recurring charge, including late fees, returned check fees, restoration of

service fees, or other fees disclosed in the REP's terms of service document provided to the customer;

~~(L)(K)~~ The ~~total current charges~~, balances from the preceding bill, payments made by the customer since the preceding bill ~~and~~, the total amount due labeled "amount due";

~~(M)~~ ~~And a~~ notice that the customer has the opportunity to voluntarily donate money to the bill payment assistance program, pursuant to §25.480(g)(2) of this title (relating to Bill Payment and Adjustments);

~~(N)(L)~~ If available to the REP on a standard electronic transaction, the current beginning and ending meter readings of non-interval demand recorder meters, if the bill is based on actual kilowatt-hour (kWh) usage, including kWh, actual kilowatts (kW) or kilovolt ampere (kVa), and billed kW or kVa, the kind and number of units measured, whether the bill was issued based on estimated usage, and any conversions from meter reading units to billing units, or any other calculations to determine billing units from recording or other devices, or any other factors used in determining the bill, unless the customer is provided conversion charts;

~~(O)(M)~~ Any amount owed under a written guarantee agreement, provided the guarantor was previously notified in writing by the REP of an obligation on a guarantee or as required by §25.478 of this title (relating to Credit Requirements and Deposits);

~~(P)(N)~~ A conspicuous notice of any services or products being provided to the customer that have been added since the previous bill;

~~(Q)~~ Notification of any changes in the customer's prices or charges due to the operation of a variable rate feature previously disclosed by the REP in the customer's terms of service document; ~~and~~

~~(R)~~ The notice required by §25.481(d) of this title (relating to Unauthorized Charges);

~~(S)~~ The date and reading of the meter at the beginning and at the end of the billing period; and

~~(T)~~ On the first page of the bill in at least 12-point font the phrase, "for more information about residential electric service please visit www.powertochoose.com."

- (2) If the REP ~~presents~~ ~~has presented~~ its electric service charges in an unbundled fashion, it shall use the following terms, if applicable to the customer's bill: "demand charge," "energy charge," "monthly charge," "transmission and distribution service charge," and "taxes and other fees." These terms shall have the following definitions: ~~as defined by the commission:~~ ~~"transmission and distribution service," "generation service," "System Benefit Fund," and, where applicable, "transition charge," "nuclear decommissioning fee," and "municipal franchise fee."~~

~~(A)~~ Demand charge -- any charge, other than a tax or other fee or a transmission and distribution service charge, that is assessed on the basis of the customer's demand;

Formatted: Indent: Left: 1", Hanging: 0.5", Tab stops: 0", Left + Not at 1.31" + 1.73" + 2.13" + 2.53"

(B) Energy charge -- any charge, other than a tax or other fee or a transmission and distribution service charge, that is assessed on the basis of the customer's energy consumption;

(C) Monthly charge -- any charge, other than a tax or other fee or a transmission and distribution service charge that is assessed on a monthly basis without regard to the customer's demand or energy consumption;

(D) Transmission and distribution charge -- any charge that is assessed to recover solely the charges assessed by a transmission and distribution utility (TDU) for the delivery of electricity to customer over poles and wires and other TDU facilities; and

(E) Taxes and other fees -- any charge that is assessed to recover taxes or fees assessed by a unit of government in connection with the provision of service to the customer.

(3) To the extent that a REP applies a charge as a separate line item on a customer's bill that is consistent with one of the terms set out in this paragraph, the term shall be used in identifying charges on customers' bills (and the definitions in this paragraph shall be easily located on the REP's website). To the extent a REP uses on a customer's bill one of the terms set out in this paragraph, the amount charged shall be consistent with the definition. To the extent a REP unbundles on a customer's bill TDU delivery charge(s) included in subparagraphs (A)-(K) of this paragraph it shall use the applicable term(s) listed in subparagraphs (A)-(K) of this paragraph and shall not include any markup in the corresponding charge. A REP may not use a different term for a charge that is defined in this paragraph.

Such a charge may be shown as a sub-item for any item from paragraph (2) of this subsection or as an additional item.

- (A) Advanced metering charge -- A charge assessed to recover a TDU's charges for Advanced Metering Systems, to the extent that they are not recovered in a TDU's standard metering charge.
- (B) Competition Transition Charge -- A charge assessed to recover a TDU's charges for non-securitized costs associated with the transition to competition.
- (C) Energy Efficiency Cost Recovery Factor -- A charge assessed to recover a TDU's charges for energy efficiency programs, to the extent that the TDU charge is a separate charge exclusively for that purpose that is approved by the Public Utility Commission.
- (D) Late Payment Penalty -- A charge assessed in accordance with Public Utility Commission rules.
- (E) Meter Charge -- A charge assessed to recover a TDU's charges for metering a customer's consumption, to the extent that the TDU charge is a separate charge exclusively for that purpose that is approved by the Public Utility Commission.
- (F) Meter re-read charge -- A charge assessed to recover a TDU's charges for a customer-requested meter read.
- (G) Miscellaneous Gross Receipts Tax Reimbursement -- A fee assessed to recover the miscellaneous gross receipts tax imposed on retail electric

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

providers operating in an incorporated city or town having a population of more than 1000.

Formatted: Font: 12 pt, Font color: Black

(H) Nuclear Decommissioning Fee -- A charge assessed to recover a TDU's charges for decommissioning of nuclear generating sites.

(I) PUC Assessment Reimbursement -- A fee assessed to recover the statutory fee for administering the Public Utility Regulatory Act.

(J) Sales tax -- Sales tax collected by authorized taxing authorities, such as the state, cities and special purpose districts.

(K) Transition Charge(s) -- A charge assessed to recover a TDU's charges for securitized costs associated with the transition to competition.

Formatted: Font: 12 pt, Font color: Black

Formatted: Font: 12 pt, Font color: Black

~~(4)(3)~~ A REP shall provide an itemization of charges, including non-bypassable charges, to the customer upon the customer's request. ~~In lieu of providing a specific quantification of "generation service," an affiliated REP may indicate to customers that the remainder of the bill is related to generation services, after the itemization of non-bypassable charges is deducted from the total bill.~~

~~(5)(4)~~ A customer's electric bill shall not contain charges for electric service from a service provider other than the customer's designated REP.

~~(6)~~ A REP shall include on each billing statement the date that a fixed rate product will expire. If the exact date is not known, the REP may estimate the expiration date by reference to the billing cycle and month or approximate date of expiration.

~~(7)~~ To the extent that a REP uses the concepts identified in this paragraph in a customer's bill, it shall use the term set out in this paragraph, and the definitions

in this paragraph shall be easily located on the REP’s website. A REP may not use a different term for a charge that is defined in this paragraph.

(A) Current Meter Read -- The meter reading at the end of the period for which the customer is being billed;

(B) kW -- Kilowatt, the standard unit for measuring electricity demand, equal to 1000 watts;

(C) kWh -- Kilowatt-hour, the standard unit for measuring electricity energy consumption, equal to 1000 watt-hours; and

(D) Previous Meter Read -- The reading on the beginning the period for which the customer is being billed.

(8) Notice of contract expiration may be provided in a bill in accordance with §25.475 (relating to General Retail Electric Provider Requirements and Information Disclosures to Residential and Small Commercial Customers).

(d) - (h) (No change.)

(i) — This section is effective June 1, 2004.

Formatted: Font: 12 pt, Font color: Black

Formatted: Font color: Black

Formatted: Normal, Left, Indent: Left: 0", First line: 0", Line spacing: single

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 31st DAY OF JULY 2009 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

q:\cadm\txr-rules management\rules\rulemaking projects\electric\37070\37070pub.docx