

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

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

#### §25.498. Prepaid Service.

- (a) **Applicability.** This section applies to retail electric providers (REPs) that offer a payment option in which a customer pays for retail service prior to the delivery of service and to transmission and distribution utilities (TDUs) that have installed advanced meters and related systems. A REP may not offer prepaid service to residential or small commercial customers unless it complies with this section. The following provisions do not apply to prepaid service, unless otherwise expressly stated:
- (1) §25.479 of this title (relating to Issuance and Format of Bills);
  - (2) §25.480(b), (e)(3), (h), (i), (j), and (k) of this title (relating to Bill Payment and Adjustments); and
  - (3) §25.483 of this title (relating to Disconnection of Service), except for §25.483(b)(2)(A) and (B), (d), and (e)(1)-(6) of this title.
- (b) **Definitions.** The following terms, when used in this section, have the following meanings unless the context indicates otherwise.
- (1) **Connection balance** -- A current balance, not to exceed \$75 for a residential customer, required to establish prepaid service or reconnect prepaid service following disconnection.
  - (2) **Current balance** -- An account balance calculated consistent with subsection (c)(6) of this section.
  - (3) **Customer prepayment device or system (CPDS)** -- A device or system that includes metering and communications capabilities that meet the requirements of this section, including a device or system that accesses customer consumption information from a TDU's advanced metering system (AMS). The CPDS may be owned by the REP, and installed by the TDU consistent with subsection (c)(2)-(4) of this section.
  - (4) **Disconnection balance** -- An account balance, not to exceed \$10 for a residential customer, below which the REP may initiate disconnection of the customer's service.
  - (5) **Landlord** -- A landlord or property manager or other agent of a landlord.
  - (6) **Postpaid service** -- A payment option offered by a REP for which the customer normally makes a payment for electric service after the service has been rendered.
  - (7) **Prepaid service** -- A payment option offered by a REP for which the customer normally makes a payment for electric service before service is rendered.
  - (8) **Prepaid disclosure statement (PDS)** -- A document described by subsection (e) of this section.
  - (9) **Summary of usage and payment (SUP)** -- A document described by subsection (h) of this section.
- (c) **Requirements for prepaid service.**
- (1) A REP shall file with the commission a notice of its intent to provide prepaid service prior to offering such service. The notice of intent shall include a description of the type of CPDS the REP will use, and the initial Electricity Facts Label (EFL), Terms of Service (TOS), and PDS for the service. Except as provided in subsection (m) of this section, a REP-controlled CPDS or TDU settlement provisioned meter is required for any prepaid service.
  - (2) A CPDS that relies on metering equipment other than the TDU meter shall conform to the requirements and standards of §25.121(e) of this title (relating to Meter Requirements), §25.122 of this title (relating to Meter Records), and section 4.7.3 of the tariff for retail electric delivery service, which is prescribed by §25.214 of this title (relating to Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities).

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

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

- (3) A TDU may, consistent with its tariff, install CPDS equipment, including meter adapters and collars on or near the TDU's meters. Such installation does not constitute competitive energy services as this term is defined in §25.341(3) of this title (relating to Definitions).
- (4) A CPDS shall not cause harmful interference with the operation of a TDU's meter or equipment, or the performance of any of the TDU's services. If a CPDS interferes with the TDU's meter or equipment, or TDU's services, the CPDS shall be promptly corrected or removed. A CPDS that relies on communications channels other than those established by the TDU shall protect customer information in accordance with §25.472 of this title (relating to Privacy of Customer Information).
- (5) A REP may choose the means by which it communicates required information to a customer, including an in-home device at the customer's premises, United States Postal Service, email, telephone, mobile phone, or other electronic communications. The means by which the REP will communicate required information to a customer shall be described in the TOS and the PDS.
  - (A) A REP shall communicate time-sensitive notifications required by paragraph (7)(B), (D), and (E) of this subsection by telephone, mobile phone, or electronic means.
  - (B) A REP shall, as required by the commission after reasonable notice, provide brief public service notices to its customers. The REP shall provide these public service notices to its customers by electronic communication, or by other acceptable mass communication methods, as approved by the commission.
- (6) A REP shall calculate the customer's current balance by crediting the account for payments received and reducing the account balance by known charges and fees that have been incurred, including charges based on estimated usage as allowed in paragraph (11)(E) of this subsection.
  - (A) The REP may also reduce the account balance by:
    - (i) estimated applicable taxes; and
    - (ii) estimated TDU charges that have been incurred in serving the customer and that, pursuant to the TOS, will be passed through to the customer.
  - (B) If the customer's balance reflects estimated charges and taxes authorized by subparagraph (A) of this paragraph, the REP shall promptly reconcile the estimated charges and taxes with actual charges and taxes, and credit or debit the balance accordingly within 72 hours after actual consumption data or a statement of charges from the TDU is available.
  - (C) A REP may reverse a payment for which there are insufficient funds available or that is otherwise rejected by a bank, credit card company, or other payor.
  - (D) If usage sent by the TDU is estimated or the REP estimates consumption according to paragraph (11)(E) of this subsection, the REP shall promptly reconcile the estimated consumption and associated charges with the actual consumption and associated charges within 72 hours after actual consumption data is available to the REP.
- (7) A REP shall:
  - (A) on the request of the customer, provide the customer's current balance calculated pursuant to paragraph (6) of this subsection, including the date and time the current balance was calculated and the estimated time or days of paid electricity remaining; and
  - (B) make the current balance available to the customer either:
    - (i) continuously, via the internet, phone, or an in-home device; or
    - (ii) within two hours of the REP's receipt of a customer's balance request, by the means specified in the Terms of Service for making such a request.

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

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

- (C) communicate to the customer the current price for electric service calculated as required by §25.475(g)(2)(A)-(E) of this title (relating to General Retail Electric Provider Requirements and Information Disclosures to Residential and Small Commercial Customers);
- (D) provide a warning to the customer at least one day and not more than seven days before the customer's current balance is estimated by the REP to drop to the disconnection balance;
- (E) provide a confirmation code when the customer makes a payment by credit card, debit card, or electronic check. A REP is not required to provide a confirmation code or receipt for payment sent by mail or electronic bill payment system. The REP shall provide a receipt showing the amount paid for payment in person. At the customer's request, the REP shall confirm all payments by providing to the customer the last four digits of the customer's account number or Electric Service Identifier (ESI ID), payment amount, and the date the payment was received;
- (F) ensure that a CPDS controlled by the REP does not impair a customer's ability to choose a different REP or any electric service plans offered by the REP that do not require prepayment. When the REP receives notice that a customer has chosen a new REP, the REP shall take any steps necessary to facilitate the switch on a schedule that is consistent with the effective date stated on the Electric Reliability Council of Texas (ERCOT) enrollment transaction and ERCOT's rules for processing such transactions; and
- (G) refund to the customer or an energy assistance agency, as applicable, any unexpended balance from the account within ten business days after the REP receives the final bill and final meter read from the TDU.
  - (i) In the case of unexpended funds provided by an energy assistance agency, the REP shall refund the funds to the energy assistance agency and identify the applicable customer and the customer's address associated with each refund.
  - (ii) In the case of unexpended funds provided by the customer that are less than five dollars, the REP shall communicate the unexpended balance to the customer and state that the customer may contact the REP to request a refund of the balance. Once the REP has received the request for refund from the customer, the REP shall refund the balance within ten business days.
- (8) Nothing in this subsection limits a customer from obtaining a SUP.
- (9) The communications provided under paragraph (7)(A)-(D) of this subsection and any confirmation of payment as described in paragraph (7)(E) of this subsection, except a receipt provided when the payment is made in person at a third-party payment location, shall be provided in English or Spanish, at the customer's election.
- (10) A REP shall cooperate with energy assistance agencies to facilitate the provision of energy assistance payments to requesting customers.
- (11) A REP shall not:
  - (A) tie the duration of an electric service contract to the duration of a tenant's lease;
  - (B) require, or enter into an agreement with a landlord requiring, that a tenant select the REP as a condition of a lease;
  - (C) require a connection balance in excess of \$75 for a residential customer;
  - (D) require security deposits for electric service; or
  - (E) base charges on estimated usage, other than usage estimated by the TDU or estimated by the REP in a reasonable manner for a time period in which the TDU has not provided actual or estimated usage data on a web portal within the time

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

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

- prescribed by §25.130(g) of this title (relating to Advanced Metering) and in which the TDU-provided portal does not provide the REP the ability to obtain on-demand usage data.
- (12) A REP providing service shall not charge a customer any fee for:
- (A) transitioning from a prepaid service to a postpaid service, but notwithstanding §25.478(c)(3) of this title (relating to Credit Requirements and Deposits), a REP may require the customer to pay a deposit for postpaid service consistent with §25.478(b) or (c)(1) and (2) of this title and may:
    - (i) require the deposit to be paid within ten days after issuance of a written disconnection notice that requests a deposit; or
    - (ii) bill the deposit to the customer.
  - (B) the removal of equipment; or
  - (C) the switching of a customer to another REP, or otherwise cancelling or discontinuing taking prepaid service for reasons other than nonpayment, but may charge and collect early termination fees pursuant to §25.475 of this title.
- (13) If a customer owes a debt to the REP for electric service, the REP may reduce the customer's account balance by the amount of the debt. Before reducing the account balance, the REP must notify the customer of the amount of the debt and that the customer's account balance will be reduced by the amount of the debt no sooner than 10 days after the notice required by this paragraph is issued.
- (14) In addition to the connection balance, a REP may require payment of applicable TDU fees, if any, prior to establishing electric service or reconnecting electric service.
- (15) A REP that provides prepaid service to a residential customer shall not charge an amount for electric service that is higher than the price charged by the POLR in the applicable TDU service territory. The price for prepaid service to a residential customer calculated as required by §25.475(g)(2)(A)-(E) of this title shall be equal to or lower than at least one of the tests described in subparagraphs (A)-(C) of this paragraph:
- (A) The minimum POLR rate for the residential customer class at the 500 kilowatt-hour (kWh), 1,000 kWh, and 2,000 kWh usage levels as shown on the POLR EFL posted on the commission's website for the applicable TDU service territory. When an updated POLR EFL is posted on the commission's website, the REP, at the REP's option, may continue to reference the prior POLR EFL to ensure compliance with this paragraph for prepaid service prices charged during the first 30 days, beginning the date that the updated POLR EFL is posted.
  - (B) The maximum POLR rate for the residential customer class calculated pursuant to §25.43(l) of this title (relating to Provider of Last Resort (POLR)).
  - (C) The average POLR rate for the residential customer class at the 500 kWh, 1,000 kWh, and 2,000 kWh usage levels using the formula described in §25.43(l) of this title for the applicable TDU service territory, with the LSP energy charge calculated as the simple average of the RTSPPs over the prior month for the load zone located partially or wholly in the customer's TDU service territory that had the highest simple average price. For prepaid service prices charged by a REP up to and including the tenth business day of a month, the test may be met by using the average POLR rate calculation for the month preceding the prior month.
  - (D) For a fixed rate product, the REP must show that the prepaid service prices calculated under §25.475(g)(2)(A), (D)-(E) of this title are equal to or lower than one of the tests described in subparagraphs (A) and (C) of this paragraph at the time the REP makes the offer and provided that the customer accepts the offer within 30 days.

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

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

- (d) **Customer acknowledgement.** As part of the enrollment process, a REP shall obtain the applicant's or customer's acknowledgement of the following statement: "The continuation of electric service depends on your prepaying for service on a timely basis and if your balance falls below {insert dollar amount of disconnection balance}, your service may be disconnected with little notice. Some electric assistance agencies may not provide assistance to customers that use prepaid service." The REP shall obtain this acknowledgement using any of the authorization methods specified in §25.474 of this title (relating to Selection of Retail Electric Provider).
- (e) **Prepaid disclosure statement (PDS).** A REP shall provide a PDS contemporaneously with the delivery of the contract documents to a customer pursuant to §25.474 of this title and as required by subsection (f) of this section. A REP must also provide a PDS—contemporaneously with any advertisement or other marketing materials not addressed in subsection (f) of this section that include a specific price or cost for prepaid service. The commission may adopt a form for a PDS. The PDS shall be a separate document and shall be at a minimum written in 12-point font, and shall:
- (1) provide the following statement: "The continuation of electric service depends on you prepaying for service on a timely basis and if your current balance falls below the disconnection balance, your service may be disconnected with little notice.";
  - (2) inform the customer of the following:
    - (A) the connection balance that is required to initiate or reconnect electric service;
    - (B) the acceptable forms of payment, the hours that payment can be made, instructions on how to make payments, any requirement to verify payment and any fees associated with making a payment;
    - (C) when service may be disconnected and the disconnection balance;
    - (D) that prepaid service is not available to critical care or chronic condition residential customers as these terms are defined in §25.497 of this title (relating to Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers and Chronic Condition Residential Customers);
    - (E) the means by which the REP will communicate required information;
    - (F) the availability of deferred payment plans and, if a REP reserves the right to apply a switch-hold while the customer is subject to a deferred payment plan, that a switch-hold may apply until the customer satisfies the terms of the deferred payment plan, and that a switch-hold means the customer will not be able to buy electricity from other companies while the switch-hold is in place;
    - (G) the availability of energy bill payment assistance, including the disclosure that some electric assistance agencies may not provide assistance to customers that use prepaid service and the statement "If you qualify for low-income status or low-income assistance, have received energy assistance in the past, or you think you will be in need of energy assistance in the future, you should contact the billing assistance program to confirm that you can qualify for energy assistance if you need it."; and
    - (H) an itemization of any non-recurring REP fees and charges that the customer may be charged.
  - (3) be prominently displayed in the property management office of any multi-tenant commercial or residential building at which the landlord is acting as an agent of the REP.
- (f) **Marketing of prepaid services.**
- (1) This paragraph applies to advertisements conveyed through print, television, radio, outdoor advertising, prerecorded telephonic messages, bill inserts, bill messages, and electronic media other than Internet websites. If the advertisement includes a specific price or cost, the advertisement shall include in a manner that is clear and conspicuous to the intended audience:

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

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

- (A) any non-recurring fees, and the total amount of those fees, that will be deducted from the connection balance to establish service;
  - (B) the following statement, if applicable: “Utility fees may also apply and may increase the total amount that you pay.”;
  - (C) the maximum fee per payment transaction that may be imposed by the REP; and
  - (D) the following statement: “You can obtain important standardized information that will allow you to compare this product with other offers. Contact (name, telephone number, and Internet address (if available) of the REP).” If the REP’s phone number or website address is already included on the advertisement, the REP need not repeat the phone number or website as part of this required statement. The REP shall provide the PDS and EFL to a person who requests standardized information for the product.
- (2) This paragraph applies to all advertisements and marketing that include a specific price or cost conveyed through Internet websites, direct mail, mass e-mails, and any other media not addressed by paragraphs (1), (3), and (4) of this subsection. In addition to meeting the requirements of §25.474(d)(7) of this title, a REP shall include the PDS and EFL on Internet websites and in direct mail, mass e-mails, and any other media not addressed by paragraphs (1), (3), and (4) of this subsection. For electronic communications, the PDS and EFL may be provided through a hyperlink.
- (3) This paragraph applies to outbound telephonic solicitations initiated by the REP. A REP shall disclose the following:
- (A) information required by paragraph (1)(A)-(C) of this subsection;
  - (B) when service may be disconnected, the disconnection balance, and any non-TDU disconnection fees;
  - (C) the means by which the REP will communicate required information; and
  - (D) the following statement: “You have the right to review standardized documents before you sign up for this product.” The REP shall provide the PDS and EFL to a person who requests standardized information for the product.
- (4) This paragraph applies to solicitations in person. In addition to meeting the requirements of §25.474(e)(8) of this title, before obtaining a signature from an applicant or customer who is being enrolled in prepaid service, a REP shall provide the applicant or customer a reasonable opportunity to read the PDS.
- (g) **Landlord as customer of record.** A REP offering prepaid service to multiple tenants at a location may designate the landlord as the customer of record for the purpose of transactions with ERCOT and the TDU.
- (1) For each ESI ID for which the REP chooses to designate the landlord as the customer of record, the REP shall provide to the TDU the name, service and mailing addresses, and ESI ID, and keep that information updated as required in the TDU’s Tariff for Retail Delivery Service.
  - (2) The REP shall treat each end-use consumer as a customer for purposes of this subchapter, including §25.471 of this title (relating to General Provisions of Customer Protection Rules). Nothing in this subsection affects a REP’s responsibility to provide customer billing contact information to ERCOT in the format required by ERCOT.
- (h) **Summary of usage and payment (SUP).**
- (1) A REP shall provide a SUP to each customer upon the customer’s request within three business days of receipt of the request. The SUP shall be delivered by an electronic means of communications that provides a downloadable and printable record of the SUP or, if the customer requests, by the United States Postal Service. If a customer requests a paper copy

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

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

of the SUP, a REP may charge a fee for the SUP, which must be specified in the TOS and PDS provided to the customer. For purposes of the SUP, a billing cycle shall conform to a calendar month.

- (2) A SUP 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 commission;
  - (B) a toll-free telephone number, in bold-face type, that the customer can call during specified hours for questions and complaints to the REP about the SUP;
  - (C) the name, meter number, account number, ESI ID of the customer, and the service address of the customer;
  - (D) the dates and amounts of payments made during the period covered by the summary;
  - (E) a statement of the customer's consumption and charges by calendar month during the period covered by the summary;
  - (F) an itemization of non-recurring charges, including returned check fees and reconnection fees;
  - (G) the average price for electric service for each calendar month included in the SUP. The average price for electric service shall reflect the total of all fixed and variable recurring charges, but not including state and local sales taxes, reimbursement for the state miscellaneous gross receipts tax, and any nonrecurring charges or credits, divided by the kilowatt-hour consumption, and shall be expressed as a cents per kilowatt-hour amount rounded to the nearest one-tenth of one cent; and
  - (H) if applicable, a statement that indicates the customer is receiving or has received during the usage summary period the LITE-UP Discount, pursuant to §25.454 of this title (relating to Rate Reduction Program).
- (3) If a REP separately identifies a charge defined by one of the terms in this paragraph on the customer's SUP, then the term in this paragraph must be used to identify the charge, and such term and its definition shall be easily located on the REP's website and available to a customer free of charge upon request. Nothing in the paragraph precludes a REP from aggregating TDU or REP charges. For any TDU charge(s) listed in this paragraph, the amount billed by the REP shall not exceed the amount of the TDU charge(s). The label for any TDU charge(s) may also identify the TDU that issued the charge(s). A REP may use a different term than a defined term by adding or deleting a suffix, adding the word "total" to a defined term, where appropriate, changing the use of lower-case or capital letters or punctuation, or using the acceptable abbreviation specified in this paragraph for a defined term. If an abbreviation other than the acceptable abbreviation is used for the term, then the term must also be identified on the customer's SUP.
- (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. Acceptable abbreviation: Advanced Meter.
  - (B) Competition Transition Charge -- A charge assessed to recover a TDU's charges for nonsecuritized costs associated with the transition to competition. Acceptable abbreviation: Competition Transition.
  - (C) Energy Efficiency Cost Recovery Factor -- A charge assessed to recover a TDU's costs 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. Acceptable abbreviation: Energy Efficiency.
  - (D) Late Payment Penalty -- A charge assessed for late payment in accordance with Public Utility Commission rules.

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

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

- (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) Miscellaneous Gross Receipts Tax Reimbursement -- A fee assessed to recover the miscellaneous gross receipts tax imposed on retail electric providers operating in an incorporated city or town having a population of more than 1,000. Acceptable abbreviation: Gross Receipts Reimb.
  - (G) Nuclear Decommissioning Fee -- A charge assessed to recover a TDU's charges for decommissioning of nuclear generating sites. Acceptable abbreviation: Nuclear Decommission.
  - (H) PUC Assessment -- A fee assessed to recover the statutory fee for administering the Public Utility Regulatory Act.
  - (I) Sales tax -- Sales tax collected by authorized taxing authorities, such as the state, cities and special purpose districts.
  - (J) System Benefit Fund -- A non-bypassable charge approved by the Public Utility Commission, not to exceed 65 cents per megawatt-hour, that funds the low-income discount, one-time bill payment assistance, customer education, commission administrative expenses, and low-income energy efficiency programs.
  - (K) TDU Delivery Charges -- The total amounts assessed by a TDU for the delivery of electricity to a customer over poles and wires and other TDU facilities not including discretionary charges.
  - (L) Transmission Distribution Surcharges -- One or more TDU surcharge(s) on a customer's bill in any combination. Surcharges include charges billed as tariff riders by the TDU. Acceptable abbreviation: TDU Surcharges.
  - (M) Transition Charge -- A charge assessed to recover a TDU's charges for securitized costs associated with the transition to competition.
- (4) If the REP includes any of the following terms in its SUP, the term shall be applied in a manner consistent with the definitions, and such term and its definition shall be easily located on the REP's website and available to a customer free of charge upon request:
- (A) Base Charge -- A charge assessed during each billing cycle of service without regard to the customer's demand or energy consumption.
  - (B) Demand Charge -- A charge based on the rate at which electric energy is delivered to or by a system at a given instant, or averaged over a designated period during the billing cycle.
  - (C) Energy Charge -- A charge based on the electric energy (kWh) consumed.
- (5) Unless a shorter time period is specifically requested by the customer, information provided shall be for the most recent 12 months, or the longest period available if the customer has taken prepaid service from the REP for less than 12 months.
- (6) In accordance with §25.472(b)(1)(D) of this title, a REP shall provide a SUP to an energy assistance agency within one business day of receipt of the agency's request, and shall not charge the agency for the SUP.
- (i) **Deferred payment plans.** A deferred payment plan for a customer taking prepaid service is an agreement between the REP and a customer that requires a customer to pay a negative current balance over time. A deferred payment plan may be established in person, by telephone, or online, but all deferred payment plans shall be confirmed in writing by the REP to the customer.
- (1) The REP shall place a residential customer on a deferred payment plan, at the customer's request:
    - (A) when the customer's current balance reflects a negative balance of \$50 or more during an extreme weather emergency, as defined in §25.483(j)(1) of this title, if the

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

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

- customer makes the request within one business day after the weather emergency has ended; or
- (B) during a state of disaster declared by the governor pursuant to Texas Government Code §418.014 if the customer is in an area covered by the declaration and the commission directs that deferred payment plans be offered.
- (2) The REP shall offer a deferred payment plan to a residential customer who has been underbilled by \$50 or more for reasons other than theft of service.
  - (3) The REP may offer a deferred payment plan to a customer who has expressed an inability to pay.
  - (4) The deferred payment plan shall include both the negative current balance and the connection balance.
  - (5) The customer has the right to satisfy the deferred payment plan before the prescribed time.
  - (6) The REP may require that:
    - (A) no more than 50% of each transaction amount be applied towards the deferred payment plan; or
    - (B) an initial payment of no greater than 50% of the amount due be made, with the remainder of the deferred amount paid in installments. The REP shall inform the customer of the right to pay the remaining deferred balance by reducing the deferred balance by five equal monthly installments. However, the customer can agree to fewer or more frequent installments. The installments to repay the deferred balance shall be applied to the customer's account on a specified day of each month.
  - (7) The REP may initiate disconnection of service if the customer does not meet the terms of a deferred payment plan or if the customer's current balance falls below the disconnection balance, excluding the remaining deferred amount. However, the REP shall not initiate disconnection of service unless it has provided the customer at least one day's notice that the customer has not met the terms of the plan or, pursuant to subsection (c)(7)(D) of this section, a timely notice that the customer's current balance was estimated to fall below the disconnection balance, excluding the remaining deferred amount.
  - (8) The REP may apply a switch-hold while the customer is on a deferred payment plan.
  - (9) A copy of the deferred payment plan shall be provided to the customer.
    - (A) The plan shall include a statement, in clear and conspicuous type, that states, "If you have any questions regarding the terms of this agreement, or if the agreement was made by telephone and you believe this does not reflect your understanding of that agreement, contact (insert name and contact number of REP)."
    - (B) If a switch-hold will apply, the plan shall include a statement, in a clear and conspicuous type, that states "By entering into this agreement, you understand that {company name} will put a switch-hold on your account. A switch-hold means that you will not be able to buy electricity from other companies until you pay this past due amount. The switch-hold will be removed after your final payment on this past due amount is processed. While a switch-hold applies, if you are disconnected for not paying, you will need to pay {us or company name}, to get your electricity turned back on."
    - (C) If the customer and the REP's representative or agent meet in person, the representative shall read to the customer the statement in subparagraph (A) of this paragraph and, if applicable, the statement in subparagraph (B) of this paragraph.
    - (D) The plan may include a one-time penalty in accordance with §25.480(c) of this title, but shall not include a finance charge.
    - (E) The plan shall include the terms for payment of deferred amounts, consistent with paragraph (6) of this subsection.
    - (F) The plan shall state the total amount to be paid under the plan.

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

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

- (G) The plan shall state that a customer's electric service may be disconnected if the customer does not fulfill the terms of the deferred payment plan, or if the customer's current balance falls below the disconnection balance, excluding the remaining deferred amount.
  - (10) The REP shall not charge the customer a fee for placing the customer on a deferred payment plan.
  - (11) The REP, through a standard market process, shall submit a request to remove the switch-hold, pursuant to §25.480(m)(2) of this title if the customer pays the deferred balance owed to the REP. On the day the REP submits the request to remove the switch-hold, the REP shall notify the customer that the customer has satisfied the deferred payment plan and that the switch-hold is being removed.
- (j) **Disconnection of service.** As provided by subsection (a)(4) of this section, §25.483 (b)(2)(A) and (B), (d), (e)(1)-(6), and the definition of extreme weather in §25.483(j)(1) of this title apply to prepaid service. In addition to those provisions, this subsection applies to disconnection of a customer receiving prepaid service.
- (1) **Prohibition on disconnection.** A REP shall not initiate disconnection for a customer's failure to maintain a current balance above the disconnection balance on a weekend day or during any period during which the mechanisms used for payments specified in the customer's PDS are unavailable; or during an extreme weather emergency, as this term is defined in §25.483 of this title, in the county in which the service is provided.
  - (2) **Initiation of disconnection.** A REP may initiate disconnection of service when the current balance falls below the disconnection balance, but only if the REP provided the customer a timely warning pursuant to subsection (c)(7)(D) of this section; or when a customer fails to comply with a deferred payment plan, but only if the REP provided the customer a timely warning pursuant to subsection (i)(7) of this section. A REP may initiate disconnection if the customer's current balance falls below the disconnection balance due to reversal of a payment found to have insufficient funds available or is otherwise rejected by a bank, credit card company, or other payor.
  - (3) **Pledge from electric assistance agencies.** If a REP receives a pledge, letter of intent, purchase order, or other commitment from an energy assistance agency to make a payment for a customer, the REP shall immediately credit the customer's current balance with the amount of the pledge.
    - (A) The REP shall not initiate disconnection of service if the pledge from the energy assistance agency (or energy assistance agencies) establishes a current balance above the customer's disconnection balance or, if the customer has been disconnected, shall request reconnection of service if the pledge from the energy assistance agency establishes a current balance for the customer that is at or above the customer's connection balance required for reconnection.
    - (B) The REP may initiate disconnection of service if payment from the energy assistance agency is not received within 45 days of the REP's receipt of the commitment or if the payment is not sufficient to satisfy the customer's disconnection balance in the case of a currently energized customer, or the customer's connection balance if the customer has been disconnected for falling below the disconnection balance.
  - (4) **Reconnection of service.** Within one hour of a customer establishing a connection balance or any otherwise satisfactory correction of the reasons for disconnection, the REP shall request that the TDU reconnect service or, if the REP disconnected service using its CPDS, reconnect service. The REP's payment mechanism may include a requirement that the customer verify the payment using a card, code, or other similar method in order to establish

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

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

a connection balance or current balance above the disconnection balance when payment is made to a third-party processor acting as an agent of the REP.

- (k) **Service to Critical Care Residential Customers and Chronic Condition Residential Customers.** A REP shall not knowingly provide prepaid service to a customer who is a critical care residential customer or chronic condition residential customer as those terms are defined in §25.497 of this title. In addition, a REP shall not enroll an applicant who states that the applicant is a critical care residential customer or chronic condition residential customer.
- (1) If the REP is notified by the TDU that a customer receiving prepaid service is designated as a critical care residential customer or chronic condition residential customer, the REP shall diligently work with the customer to promptly transition the customer to postpaid service or another REP in a manner that avoids a service disruption. The REP shall not charge the customer a fee for the transition, including an early termination or disconnection fee.
  - (2) If the customer is unresponsive, the REP shall transfer the customer to a competitively offered, month-to-month postpaid product at a rate no higher than the rate calculated pursuant to §25.43(1)(2)(A) of this title. The REP shall provide the customer notice that the customer has been transferred to a new product and shall provide the customer the new product's Terms of Service and Electricity Facts Label.
- (l) **Compliance period.** No later than October 1, 2011, prepaid service offered by a REP pursuant to a new contract to a customer being served using a "settlement provisioned meter," as that term is defined in Chapter 1 of the TDU's tariff for retail delivery service, or using a REP-controlled collar or meter shall comply with this section. Before October 1, 2011, prepaid service offered by a REP to a customer served using a settlement provisioned meter or REP-controlled collar or meter shall comply with this section as it currently exists or as it existed in 2010, except as provided in subsection (m) of this section.
- (m) **Transition of Financial Prepaid Service Customers.** A REP may continue to provide a financial prepaid service (*i.e.*, one that does not use a settlement provisioned meter or REP-controlled collar or meter) only to its customer that was receiving financial prepaid service at a particular location on October 1, 2011. A customer who is served by a financial prepaid service shall be transitioned to a service that complies with the other subsections of this section by the later of October 1, 2011 or sixty days after the customer begins to be served using either a settlement provisioned meter or a REP-controlled collar or meter. The customer shall be notified by the REP that the customer's current prepaid service will no longer be offered as of a date specified by the REP by the later of either October 1, 2011 or sixty days after the customer begins to be served using either a settlement provisioned meter or REP-controlled collar or meter, as applicable. The REP shall provide the notification no sooner than 60 days and not less than 30 days prior to the termination of the customer's current prepaid service. The customer shall be notified that the customer will be moved to a new prepaid service, and the REP shall transmit an EFL and PDS to the customer with the notification, if the customer does not choose another service or REP.