

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

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

#### §25.499. Acknowledgement of Risk Requirements for Certain Commercial Contracts.

- (a) **Purpose.** This section establishes requirements for the offering of wholesale indexed products and products containing separate assessment of ancillary services costs to a customer other than a residential or small commercial customer.
- (b) **Application.** This section applies to all retail electric providers (REPs), aggregators and brokers. The Acknowledgement of Risk (AOR) for wholesale indexed products required by this section is effective for enrollments or re-enrollments entered into on or after September 1, 2021. The AOR required for other product types required under this section are effective for enrollments or re-enrollments entered into on or after April 1, 2021. REPs are not required to modify contract documents related to contracts or enrollments entered into before this date.
- (c) **Definitions.** The definitions set forth in §25.5 (relating to Definitions) and §25.471(d) (relating to General Provisions of Customer Protection Rules) of this title apply to this section. In addition, wholesale indexed product, when used in this section, means a retail electric product in which the price a customer pays for electricity includes a direct pass-through of real-time settlement point prices determined by the independent organization certified under the Public Utility Regulatory Act (PURA) §39.151 for the ERCOT power region.
- (d) **Acknowledgement of Risk (AOR).** Before a customer other than a residential or small commercial customer is enrolled in a wholesale indexed product, or a product that contains a separate assessment of ancillary service charges, an aggregator, broker, or REP must obtain an AOR, signed by the customer, verifying that the customer accepts the potential price risks associated with the product.
  - (1) For Wholesale Indexed Products, the AOR must include the following statement in clear, boldfaced text: “I understand that the volatility and fluctuation of wholesale energy pricing may cause my energy bill to be multiple times higher in a month in which wholesale energy prices are high. I understand that I will be responsible for charges caused by fluctuations in wholesale energy prices.”
  - (2) For products that contain a separate assessment of ancillary service charges the AOR must include the following statement in clear, boldfaced text: “I understand that my energy bill may include a separate assessment of ancillary service charges, which may cause my energy bill to be multiple times higher in a month in which ancillary services charges are high. I understand that I will be responsible for charges caused by fluctuations in ancillary service charges.”
  - (3) An AOR may be included as an addendum to a contract.
  - (4) A REP, aggregator, or broker must retain a record of the AORs for each customer during the time the applicable plan is in effect and for four years after the contract ceases to be in effect for any customer. A REP must provide such documents at the request of the commission or its staff.