

**PROJECT NO. 47343**

<b>RULEMAKING TO AMEND</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>CHAPTER 25 SUBSTANTIVE RULES</b>	<b>§</b>	
<b>RELATING TO THE ELIMINATION</b>	<b>§</b>	<b>OF TEXAS</b>
<b>OF THE SYSTEM BENEFIT FUND</b>	<b>§</b>	

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §§ 25.5, 25.41, 25.43, 25.107, 25.181, 25.344, 25.431, 25.475, 25.478, 25.479, 25.480, 25.491, 25.497, 25.498, REPEAL OF §§ 25.451, 25.453, 25.454, 25.455, AND 25.457, AND NEW §25.45 AS APPROVED AT THE DECEMBER 14, 2017 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes to repeal 16 Texas Administrative Code (TAC) Chapter 25, Subchapter Q (Subchapter Q), relating to System Benefit Fund, including 16 TAC §25.451, relating to Administrative of the System Benefit Account; §25.453, relating to Targeted Energy Efficiency Programs; §25.454, Rate Reduction Program; §25.455, One-Time Bill Payment Assistance Program; and §25.457, relating to Implementation of the System Benefit Fee by the Municipally Owned Utilities and Electric Cooperatives; amend 16 TAC §25.5, relating to Definitions; §25.41, relating to Price to Beat Rule; §25.43, relating to Provider of Last Resort (POLR); §25.107, relating to Certification of Retail Electric Providers (REPs); §25.181, relating to Energy Efficiency Goal; §25.344, relating to Cost Separation Proceedings; §25.431, relating to Retail Competition Pilot Project; §25.475, relating to General Retail Electric Provider Requirements and Informal Disclosures to Residential and Small Commercial Customers; §25.478, relating to Credit Requirements and Deposits; §25.479, relating to Issuance and Format of Bills; §25.480, relating to Bill Payment and Adjustments; §25.491, relating to Record Retention and Reporting Requirements; §25.497, relating to Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers; and §25.498,

relating to Prepaid Service; and new §25.45, relating to Low-Income List Administrator. The repeal of Subchapter Q reflects the cessation of the System Benefit Fund, as required by House Bill 1101, 84th Legislative Session (Regular Session), and the proposed amendments update language in order to remove references to the System Benefit Fund. The proposed new 16 TAC §25.45, relating to the Low-Income List Administrator, identifies the revised responsibilities associated with the Low-Income List Administrator. In addition, Senate Bill 1976, 85th Legislative Session (Regular Session), provides means by which electric providers and certified telecommunications utilities can continue to offer assistance to low-income customers. The repeal of Subchapter Q and amendments in other subchapters to remove references to the System Benefit Fund effectuate House Bill 1101 and Senate Bill 1976 with respect to retail electric providers.

Kristin Abbott, Economist, has determined that for each of year of the first five-year period the proposed sections will be in effect, there will be no fiscal implications for state and local government as a result of enforcing or administering the proposed sections.

Ms. Abbott has determined that for each year of the first five years the proposed sections will be in effect, the anticipated public benefits will be conformity with the statute and improved clarity regarding a Retail Electric Provider's obligations under the statute. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the proposed sections. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

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

Jay Stone, Program Administrator, has determined that for each year of the first five years that the proposed sections are in effect, the following statements will apply: (1) the proposed sections for repeal will eliminate a government program; (2) implementation of the proposed sections will not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed sections will not require an increase or decrease in future legislative appropriations to the agency; (4) the proposed sections will not require an increase or decrease in fees paid to the agency; (5) the proposed sections will create a new regulation; (6) some proposed sections will expand or repeal existing regulations; (7) the proposed sections will not increase or decrease the number of individuals subject to the rule's applicability; and (8) the proposed sections will not positively or adversely affect this state's economy.

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. The request for a public hearing must be received no later than 30 days after publication.

Initial comments on the proposed sections may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326,

not later than February 5, 2018. Reply comments may be submitted not later than February 20, 2018. Sixteen copies of initial comments and reply comments are required to be filed pursuant to 16 TAC §22.71(c). The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed sections. Comments shall be organized in a manner consistent with the organization of the amended rule. All comments should refer to Project Number 47343.

The commission also solicits specific comments regarding the following question: What are the specific costs to retail electric providers related to all customers having the option to pay deposits of greater than \$50 in two monthly installments? Please provide the calculations and methodologies of such alleged costs.

The repeal, amendments and new section are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2016 & Supp. 2017), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically; §14.001, which provides the commission with the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the Public Utility Regulatory Act that is necessary and convenient to the exercise of that power and jurisdiction; §17.003, which establishes that the commission shall adopt and enforce rules to require a retail electric provider to give clear, uniform, and understandable information about rates, terms, services, customer rights, and other necessary information as determined by the commission; §17.007, which establishes that the commission may not require a retail electric provider to offer customer service, discounts, bill

payment assistance, targeted bill messaging, or other benefits for which the provider or utility is not reimbursed; §39.201, which requires that the commission establish a system benefit fund fee; §39.903, which establishes the commission's requirement to adopt rules for a bill payment assistance program and reduced rates that expired on September 1, 2017; §39.101, which permits the commission to adopt protections necessary to ensure high-quality service to customers, to adopt and enforce rules relating to customer deposits, and to require certain reports; and §39.9039, which states that the commission shall set the nonbypassable system benefit fund at the amount of zero cents per megawatt hour from September 1, 2013 to September 1, 2017.

Cross reference to statute: Public Utility Regulatory Act §§14.001, 14.002, 17.003, 17.007, 39.101, 39.201, 39.903, and 39.9039.

**§25.5. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1)-(9) (No change.)

(10) **Base rate** -- Generally, a rate designed to recover the cost of service other than certain costs separately identified and recovered through a rider, rate schedule, or other schedule. For bundled utilities, these separately identified costs may include items such as a fuel factor, power cost recovery factor, and surcharge. Distribution service providers may have separately identified costs such as ~~the system benefit fee,~~ transition costs, the excess mitigation charge, transmission cost recovery factors, and the competition transition charge.

(11)-(48) (No change.)

(49) **Exempt wholesale generator** -- A person who is engaged directly or indirectly through one or more affiliates exclusively in the business of owning or operating all or part of a facility for generating electric energy and selling electric energy at wholesale who does not own a facility for the transmission of electricity, other than an essential interconnecting transmission facility necessary to effect a sale of electric energy at wholesale, and who is in compliance with the registration requirements of §25.109 of this title (Registration of Power Generation Companies and Self-Generators) ~~§25.105 of this title (relating to Registration and Reporting by Power Marketers)~~.

(50)-(64) (No change.)

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(65) **Low-income customer** -- An electric customer who receives Supplemental Nutrition Assistance Program (SNAP) from Texas Health and Human Services Commission (HHSC)~~[, whose household income is not more than 125% of the federal poverty guidelines, or who receives food stamps from the Texas Department of Human Services (TDHS)]~~ or medical assistance from a state agency administering a part of the medical assistance program.

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(66) **Low-Income List Administrator (LILA)**~~[Low Income Discount Administrator (LIDA)]~~ -- A third-party administrator contracted by the commission to administer aspects of the low-income customer identification process established under PURA §17.007~~[the rate reduction program established under Public Utility Regulatory Act §39.903]~~.

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(67)-(100) (No change.)

~~[(101) **Rate reduction program** -- A program to provide reduced electric rates for eligible low income customers, in accordance with the Public Utility Regulatory Act §39.903(h).]~~

(101)~~[(102)]~~ **Rate year** -- The 12-month period beginning with the first date that rates become effective. The first date that rates become effective may include, but is not limited to, the effective date for bonded rates or the effective date for interim or temporary rates.

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(102)~~[(103)]~~ **Rate making proceeding** -- A proceeding in which a rate may be changed.

(103)~~[(104)]~~ **Registration agent** -- Entity designated by the commission to administer registration and settlement, premise data, and other processes concerning a

customer's choice of retail electric provider in the competitive electric market in Texas.

~~(104)~~~~(105)~~ **Regulatory authority** -- In accordance with the context where it is found, either the commission or the governing body of a municipality.

~~(105)~~~~(106)~~ **Renewable demand side management (DSM) technologies** -- Equipment that uses a renewable energy resource (renewable resource) as defined in this section, that, when installed at a customer site, reduces the customer's net purchases of energy (kWh), electrical demand (kW), or both.

~~(106)~~~~(107)~~ **Renewable energy** -- Energy derived from renewable energy technologies.

~~(107)~~~~(108)~~ **Renewable energy credit (REC)** -- A tradable instrument representing the generation attributes of one MWh of electricity from renewable energy sources, as authorized by the Public Utility Regulatory Act §39.904 and implemented under §25.173(e) of this title (relating to Goal for Renewable Energy).

~~(108)~~~~(109)~~ **Renewable energy credit account (REC account)** -- An account maintained by the renewable energy credits trading program administrator for the purpose of tracking the production, sale, transfer, purchase, and retirement of RECs by a program participant.

~~(109)~~~~(110)~~ **Renewable energy resource (renewable resource)**--A resource that produces energy derived from renewable energy technologies.

~~(110)~~~~(111)~~ **Renewable energy technology** -- Any technology that exclusively relies on an energy source that is naturally regenerated over a short time and derived directly from the sun, indirectly from the sun or from moving water or other natural movements and mechanisms of the environment. Renewable energy technologies

include those that rely on energy derived directly from the sun, on wind, geothermal, hydroelectric, wave, or tidal energy, or on biomass or biomass-based waste products, including landfill gas. A renewable energy technology does not rely on energy resources derived from fossil fuels, waste products from fossil fuels, or waste products from inorganic sources.

~~(111)(412)~~ **Repowering** -- Modernizing or upgrading an existing facility in order to increase its capacity or efficiency.

~~(112)(413)~~ **Residential customer** -- Retail customers classified as residential by the applicable bundled utility tariff, unbundled 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 at the customer's place of residence for personal, family or household purposes and who are not resellers of electricity.

~~(113)(414)~~ **Retail customer**--The separately metered end-use customer who purchases and ultimately consumes electricity.

~~(114)(415)~~ **Retail electric provider (REP)**--A person that sells electric energy to retail customers in this state. A retail electric provider may not own or operate generation assets.

~~(115)(416)~~ **Retail stranded costs**--That part of net stranded cost associated with the provision of retail service.

~~(116)(417)~~ **Retrofit**--The installation of control technology on an electric generating facility to reduce the emissions of nitrogen oxide, sulfur dioxide, or both.

~~(117)~~~~(118)~~ **River authority**--A conservation and reclamation district created pursuant to the Texas Constitution, Article 16, Section 59, including any nonprofit corporation created by such a district pursuant to the Texas Water Code, Chapter 152, that is an electric utility.

~~(118)~~~~(119)~~ **Rule**--A statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the commission. The term includes the amendment or repeal of a prior rule, but does not include statements concerning only the internal management or organization of the commission and not affecting private rights or procedures.

~~(119)~~~~(120)~~ **Separately metered** -- Metered by an individual meter that is used to measure electric energy consumption by a retail customer and for which the customer is directly billed by a utility, retail electric provider, electric cooperative, or municipally owned utility.

~~(120)~~~~(121)~~ **Service** -- Has its broadest and most inclusive meaning. The term includes any act performed, anything supplied, and any facilities used or supplied by an electric utility in the performance of its duties under the Public Utility Regulatory Act to its patrons, employees, other public utilities or electric utilities, an electric cooperative, and the public. The term also includes the interchange of facilities between two or more public utilities or electric utilities.

~~(121)~~~~(122)~~ **Spanish-speaking person** -- A person who speaks any dialect of the Spanish language exclusively or as their primary language.

~~(122)~~~~(123)~~ **Standard meter** -- The minimum metering device necessary to obtain the billing determinants required by the transmission and distribution utility's tariff

schedule to determine an end-use customer's charges for transmission and distribution service.

~~(123)~~~~(124)~~ **Stranded cost** -- The positive excess of the net book value of generation assets over the market value of the assets, taking into account all of the electric utility's generation assets, any above-market purchased power costs, and any deferred debit related to a utility's discontinuance of the application of Statement of Financial Accounting Standards Number 71 ("Accounting for the Effect of Certain Types of Regulation") for generation-related assets if required by the provisions of the Public Utility Regulatory Act (PURA), Chapter 39. For purposes of PURA §39.262, book value shall be established as of December 31, 2001, or the date a market value is established through a market valuation method under PURA §39.262(h), whichever is earlier, and shall include stranded costs incurred under PURA §39.263.

~~(124)~~~~(125)~~ **Submetering** -- Metering of electricity consumption on the customer side of the point at which the electric utility meters electricity consumption for billing purposes.

~~(125)~~~~(126)~~ **Summer net dependable capability** -- The net capability of a generating unit in megawatts (MW) for daily planning and operational purposes during the summer peak season, as determined in accordance with requirements of the reliability council or independent organization in which the unit operates.

~~(126)~~~~(127)~~ **Supply-side resource** -- A resource, including a storage device, that provides electricity from fuels or renewable resources.

~~[(128) **System benefit account** -- An account with the Texas Comptroller of Public Accounts (Comptroller) to be administered by the commission.]~~

~~[(129) **System benefit fee** -- A nonbypassable fee set by the commission to finance the system benefit account or fund. The fee shall be charged to electric retail customers based on the amount of kilowatt hours (kWh) of electric energy used, as measured at the meter and adjusted for voltage level losses.]~~

~~[(127)](130) **System emergency** -- A condition on a utility's system that is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.~~

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~~[(128)](131) **Tariff** -- The schedule of a utility, municipally-owned utility, or electric cooperative containing all rates and charges stated separately by type of service, the rules and regulations of the utility, and any contracts that affect rates, charges, terms or conditions of service.~~

~~[(129)](132) **Termination of service** -- The cancellation or expiration of a sales agreement or contract by a retail electric provider by notification to the customer and the registration agent.~~

~~[(130)](133) **Tenant** -- A person who is entitled to occupy a dwelling unit to the exclusion of others and who is obligated to pay for the occupancy under a written or oral rental agreement.~~

~~[(131)](134) **Test year** -- The most recent 12 months for which operating data for an electric utility, electric cooperative, or municipally-owned utility are available and shall commence with a calendar quarter or a fiscal year quarter.~~

~~(132)~~~~(435)~~ **Texas jurisdictional installed generation capacity** -- The amount of an affiliated power generation company's installed generation capacity properly allocable to the Texas jurisdiction. Such allocation shall be calculated pursuant to an existing commission-approved allocation study, or other such commission-approved methodology, and may be adjusted as approved by the commission to reflect the effects of divestiture or the installation of new generation facilities.

~~(133)~~~~(436)~~ **Transition bonds** -- Bonds, debentures, notes, certificates, of participation or of beneficial interest, or other evidences of indebtedness or ownership that are issued by an electric utility, its successors, or an assignee under a financing order, that have a term not longer than 15 years, and that are secured or payable from transition property.

~~(134)~~~~(437)~~ **Transition charges** -- Nonbypassable amounts to be charged for the use or availability of electric services, approved by the commission under a financing order to recover qualified costs, that shall be collected by an electric utility, its successors, an assignee, or other collection agents as provided for in a financing order.

~~(135)~~~~(438)~~ **Transmission and distribution business unit (TDBU)** — The business unit of a municipally owned utility/electric cooperative, whether structurally unbundled as a separate legal entity or functionally unbundled as a division, that owns or operates for compensation in this state equipment or facilities to transmit or distribute electricity at retail, except for facilities necessary to interconnect a generation facility with the transmission or distribution network, a facility not dedicated to public use, or a facility otherwise excluded from the definition of

electric utility in a qualifying power region certified under the Public Utility Regulatory Act §39.152. Transmission and distribution business unit does not include a municipally owned utility/electric cooperative that owns, controls, or is an affiliate of the transmission and distribution business unit if the transmission and distribution business unit is organized as a separate corporation or other legally distinct entity. Except as specifically authorized by statute, a transmission and distribution business unit shall not provide competitive energy-related activities.

~~(136)(439)~~ **Transmission and distribution utility (TDU)** -- A person or river authority that owns, or operates for compensation in this state equipment or facilities to transmit or distribute electricity, except for facilities necessary to interconnect a generation facility with the transmission or distribution network, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility", in a qualifying power region certified under the Public Utility Regulatory Act (PURA) §39.152, but does not include a municipally owned utility or an electric cooperative. The TDU may be a single utility or may be separate transmission and distribution utilities.

~~(137)(440)~~ **Transmission line** -- A power line that is operated at 60 kilovolts (kV) or above, when measured phase-to-phase.

~~(138)(441)~~ **Transmission service** -- Service that allows a transmission service customer to use the transmission and distribution facilities of electric utilities, electric cooperatives and municipally owned utilities to efficiently and economically utilize generation resources to reliably serve its loads and to deliver power to another transmission service customer. Includes construction or enlargement of facilities,

transmission over distribution facilities, control area services, scheduling resources, regulation services, reactive power support, voltage control, provision of operating reserves, and any other associated electrical service the commission determines appropriate, except that, on and after the implementation of customer choice in any portion of the Electric Reliability Council of Texas (ERCOT) region, control area services, scheduling resources, regulation services, provision of operating reserves, and reactive power support, voltage control and other services provided by generation resources are not "transmission service".

~~(139)(142)~~ **Transmission service customer** -- A transmission service provider, distribution service provider, river authority, municipally-owned utility, electric cooperative, power generation company, retail electric provider, federal power marketing agency, exempt wholesale generator, qualifying facility, power marketer, or other person whom the commission has determined to be eligible to be a transmission service customer. A retail customer, as defined in this section, may not be a transmission service customer.

~~(140)(143)~~ **Transmission service provider (TSP)** -- An electric utility, municipally-owned utility, or electric cooperative that owns or operates facilities used for the transmission of electricity.

~~(141)(144)~~ **Transmission system** -- The transmission facilities at or above 60 kilovolts (kV) owned, controlled, operated, or supported by a transmission service provider or transmission service customer that are used to provide transmission service.

**§25.41. Price to Beat.**

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

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

(1)-(7) (No change.)

~~[(8) **Registration agent**—As defined in §25.454 of this title (relating to Rate Reduction Programs).]~~

~~[(8) **Representative power price**—~~ -- The simple average of the results of:

- (A) a request for proposals (RFP) for full-requirements service of 10% of price to beat load for a duration of three years expressed in cents per kWh; and
- (B) the price resulting from the capacity auctions of the affiliated power generation company (PGC) required by §25.381 of this title (relating to Capacity Auctions) for baseload capacity entitlements auctioned in the ERCOT zone where the majority of price to beat customers reside, expressed in cents per kWh. The calculation of the price resulting from the capacity auctions shall assume dispatch of 100% of the entitlement and shall use the most recent auction of a 12-month forward strip of entitlements, or the most recent aggregated forward 12 months of entitlements. The affiliated REP, at its option, may conduct an RFP or purchase auction for an amount equivalent to the amount, in MWs, of the affiliated PGC's

capacity auction for the September 2001 12-month forward strip baseload entitlements.

~~(9)~~~~(10)~~ **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.

~~(10)~~~~(11)~~ **Small commercial customer** -- A non-residential retail customer having a peak demand of 1,000 kilowatts (kW) or less. For purposes of this section, the term small commercial customer refers to a metered point of delivery. Additionally, any non-residential, non-metered point of delivery with peak demand of less than 1,000 kW shall also be considered a small commercial customer. For purposes of subsection (i) of this section, unmetered guard and security lights are not considered small commercial customers unless such an account has historically been treated as a separate customer for billing purposes.

~~(11)~~~~(12)~~ **Transmission and distribution utility** -- As defined in §25.5 of this title (relating to Definitions), except for purposes of this section, this term does not include a river authority.

(d)-(g) (No change.)

(h) **Non-price to beat offers.**

(1) **Offers to residential customers.** An affiliated REP may not offer any rates other than the price to beat rates to residential customers within the affiliated electric utility's service area until the earlier of 36 months after the date customer choice is introduced, or when the commission determines that an affiliated REP has met or exceeded the threshold target for residential customers described in subsection (i) of this section~~[, except as provided by §25.454 of this title (relating to Rate Reduction Program)].~~

(2)-(3) (No change.)

(i)-(l) (No change.)

**§25.43. Provider of Last Resort (POLR).**

(a)-(c) (No change.)

**(d) POLR service.**

(1)-(3) (No change.)

(4) A POLR provider shall offer a basic, standard retail service package to customers it is designated to serve, which shall be limited to:

(A) Basic firm service; and

(B) Call center facilities available for customer inquiries. ~~[-; and]~~

~~[(C) Benefits for low income customers as provided for under PURA §39.903 relating to the System Benefit Fund.]~~

(5)-(6) (No change.)

(e) (No change.)

**(f) Customer information.**

(1) The Standard Terms of Service prescribed in subparagraphs (A)-(D) of this paragraph apply to POLR service provided by an LSP under a rate prescribed by subsection (m)(2) of this section.

(A) Standard Terms of Service, POLR Provider Residential Service:

Figure: 16 TAC §25.43(f)(1)(A)

(B)-(D) (No change.)

(2) (No change.)

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(g)-(o) (No change.)

(p) **REP obligations in a transition of customers to POLR service.**

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

(9) A POLR provider may require a deposit from a customer that has been transitioned to the POLR provider to continue to serve the customer. Despite the lack of a deposit, the POLR provider is obligated to serve the customer transitioned or assigned to it, beginning on the service initiation date of the transition or assignment, and continuing until such time as any disconnection request is effectuated by the TDU. A POLR provider may make the request for deposit before it begins serving the customer, but the POLR provider shall begin providing service to the customer even if the service initiation date is before it receives the deposit - if any deposit is required. A POLR provider shall not disconnect the customer until the appropriate time period to submit the deposit has elapsed. For the large non-residential customer class, a POLR provider may require a deposit to be provided in three calendar days. For the residential customer class, the POLR provider may require a deposit to be provided after 15 calendar days of service if the customer received 10 days' notice that a deposit was required. For all other customer classes, the POLR provider may require a deposit to be provided in 10 calendar days. The POLR provider may waive the deposit requirement at the customer's request if deposits are waived in a non-discriminatory fashion. If the POLR provider obtains sufficient data, it shall determine whether a residential customer has satisfactory

credit based on the criteria the POLR provider routinely applies to its other residential customers. If the customer has satisfactory credit, the POLR provider shall not request a deposit from the residential customer.

- (A) At the time of a mass transition, the Executive Director or staff designated by the Executive Director shall distribute available proceeds from an irrevocable stand-by letter of credit in accordance with the priorities established in §25.107(f)(6) of this title. For a REP that has obtained a current list from the Low Income List Administrator (LILA) that identifies low-income customers, these funds shall first be used to provide deposit payment assistance for that REP's transitioned low-income customers.~~These funds shall first be used to provide deposit payment assistance for transitioned customers enrolled in the rate reduction program pursuant to §25.454 of this title (relating to Rate Reduction Program).~~ The Executive Director or staff designee shall, at the time of a transition event, determine the reasonable deposit amount up to \$400 per customer ESI ID, unless good cause exists to increase the level of the reasonable deposit amount above \$400. Such reasonable deposit amount may take into account factors such as typical residential usage and current retail residential prices, and, if fully funded, shall satisfy in full the customers' initial deposit obligation to the VREP or LSP.
- (B) For a REP that has obtained a current list from the LILA that identifies low-income customers, the Executive Director or the staff designee shall distribute available proceeds pursuant to §25.107(f)(6) of this title to the

VREPs proportionate to the number of customers they received in the mass transition, who at the time of the mass transition were identified as low-income customers by the current LILA list, up to the reasonable deposit amount set by the Executive Director or staff designee.~~[The Executive Director or the staff designee shall distribute available proceeds pursuant to §25.107(f)(6) of this title to VREPs proportionate to the number of customers they received in the mass transition, who at the time of the transition are enrolled in the rate reduction program pursuant to §25.454 of this title, up to the reasonable deposit amount set by the Executive Director or staff designee.]~~ If funds remain available after distribution to the VREPs, the remaining funds shall be distributed to the appropriate LSPs by dividing the amount remaining by the number of low income customers as identified as the LILA list that are allocated to LSPs, up to the reasonable deposit amount set by the Executive Director or staff designee.

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(C) — If the funds distributed in accordance with §25.107(f)(6) of this title do not equal the reasonable deposit amount determined, the VREP and LSP may request from the customer payment of the difference between the reasonable deposit amount and the amount distributed. Such difference shall be collected in accordance with §25.478(e)(3) of this title (relating to Credit Requirements and Deposits) that allows a ~~[an eligible]~~ customer to pay its deposit in two equal installments provided that:

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- (i) The amount distributed shall be considered part of the first installment and the VREP or LSP shall not request an additional first

deposit installment amount if the amount distributed is at least 50% of the reasonable deposit amount; and

- (ii) A VREP or LSP may not request payment of any remaining difference between the reasonable deposit amount and the distributed deposit amount sooner than 40 days after the transition date.

(D) (No change.)

(10)-(17) (No change.)

(q)-(r) (No change.)

- (s) **Reporting requirements.** Each LSP that serves customers under a rate prescribed by subsection (m)(2) of this section shall file the following information with the commission on a quarterly basis beginning January of each year in a project established by the commission for the receipt of such information. Each quarterly report shall be filed within 30 calendar days of the end of the quarter.

- (1) For each month of the reporting quarter, each LSP shall report the total number of new customers acquired by the LSP under this section and the following information regarding these customers:

~~[(A) The number of customers eligible for the rate reduction program pursuant to §25.454 of this title;]~~

~~(A)(B)~~ The number of customers from whom a deposit was requested pursuant to the provisions of §25.478 of this title, and the average amount of deposit requested;

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~~(B)(C)~~ The number of customers from whom a deposit was received, including those who entered into deferred payment plans for the deposit, and the average amount of the deposit;

~~(C)(D)~~ The number of customers whose service was physically disconnected pursuant to the provisions of §25.483 of this title (relating to Disconnection of Service) for failure to pay a required deposit; and

~~(D)(E)~~ Any explanatory data or narrative necessary to account for customers that were not included in either subparagraph (B) or ~~(C)(C) or (D)~~ of this paragraph.

- (2) For each month of the reporting quarter each LSP shall report the total number of customers to whom a disconnection notice was issued pursuant to the provisions of §25.483 of this title and the following information regarding those customers:

~~[(A) The number of customers eligible for the rate reduction program pursuant to §25.454 of this title;]~~

~~(A)(B)~~ The number of customers who entered into a deferred payment plan, as defined by §25.480(j) of this title (relating to Bill Payment and Adjustments) with the LSP;

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~~(B)(C)~~ The number of customers whose service was physically disconnected pursuant to §25.483 of this title;

~~(C)(D)~~ The average amount owed to the LSP by each disconnected customer at the time of disconnection; and

~~(D)(E)~~ Any explanatory data or narrative necessary to account for customers that are not included in either subparagraph (A) or (B)~~(B) or (C)~~ of this paragraph.

(3) (No change.)

(t)-(v) (No change.)

(w) **Deposit payment assistance.** ~~{Customers enrolled in the rate reduction program pursuant to §25.454 of this title shall receive POLR deposit payment assistance when proceeds are available in accordance with §25.107(f)(6) of this title.}~~

~~{(1) Using the most recent Low Income Discount Administrator (LIDA) enrolled customer list, the Executive Director or staff designee shall work with ERCOT to determine the number of customer ESI IDs enrolled on the rate reduction program that shall be assigned to each VREP, and if necessary, each LSP.}~~

~~(1)(2)~~ The commission staff designee shall distribute the deposit payment assistance monies to the appropriate POLRs on behalf of customers as soon as practicable.

~~(2)(3)~~ The Executive Director or staff designee shall use best efforts to provide written notice to the appropriate POLRs of the following on or before the second calendar day after the transition:

(A) a list of the ESI IDs identified by the LILA that have been or shall be transitioned to the applicable POLR (if applicable); and~~enrolled on the rate~~

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~~reduction program that have been or shall be transitioned to the applicable POLR}; and~~

- (B) the amount of deposit payment assistance that shall be provided on behalf of a POLR customer ~~identified by the LILA (if applicable) enrolled on the rate reduction program}.~~

~~(3)(4)~~ Amounts credited as deposit payment assistance pursuant to this section shall be refunded to the customer in accordance with §25.478(j) of this title.

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**Standard Terms of Service**

[Insert LSP Name] (Certificate No. \_\_\_\_)

**Provider of Last Resort (POLR) Residential Service**

This Standard Terms of Service applies to residential customers receiving Provider of Last Resort (POLR) service from [insert LSP 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 utility (TDU) rates. Each Standard Terms of Service 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**

Your Large Service Provider (LSP) is a Provider of Last Resort designated by the Public Utility Commission of Texas and will provide POLR service. Your LSP 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 LSP rate for your electric service will be based on the formula detailed below.

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

$$\text{LSP rate (in \$ per kWh)} = (\text{Non-bypassable charges} + \text{LSP customer charge} + \text{LSP energy charge}) / \text{kWh used}$$

Where:

- (i) Non-bypassable charges shall be all TDU and other non-bypassable charges and credits for the appropriate customer class in the applicable service territory, including ERCOT administrative charges, nodal fees or surcharges, Reliability Unit Commitment (RUC)

capacity short charges attributable to LSP load, and applicable taxes from various taxing or regulatory authorities, multiplied by the level of kWh and KW used, where appropriate.

- (ii) LSP customer charge shall be \$0.06 per kWh.
- (iii) LSP energy charge shall be the sum over the billing period of the actual hourly Real-Time Settlement Point Prices (RTSPPs) for the customer's load zone that is multiplied by the number of kWhs the customer used during that hour and that is further multiplied by 120%.
- (iv) "Actual hourly RTSPP" is an hourly rate based on a simple average of the actual interval RTSPPs over the hour.
- (v) "Number of kWhs the customer used" is based either on interval data or on an allocation of the customer's total actual usage to the hour based on a ratio of the sum of the ERCOT backcasted profile interval usage data for the customer's profile type and weather zone over the hour to the total of the ERCOT backcasted profile interval usage data for the customer's profile type and weather zone over the customer's entire billing period.
- (vi) For each billing period, if the sum over the billing period of the actual hourly RTSPP for a customer multiplied by the number of kWhs the customer used during that hour falls below the simple average of the RTSPPs for the load zone located partially or wholly in the customer's TDU service territory that had the highest simple average price over the 12-month period ending September 1 of the preceding year multiplied by the number of kWhs the customer used during the customer's billing period, then the LSP energy charge shall be the simple average of the RTSPPs for the load zone partially or wholly in the customer's TDU service territory that had the highest simple average over the 12-month period ending September 1 of the preceding year multiplied by the number of kWhs the customer used during the customer's billing period multiplied by 125%. This methodology shall apply until the commission issues an order suspending or modifying the operation of the floor after conducting an investigation.

2. SECURITY

LSP shall not require a cash deposit if you are able to provide the LSP with a Credit Reference Letter that includes the following representations: 1) you have been a customer of any retail electric provider within the two years prior to your request for electric service or prior to your transfer to POLR 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 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.

~~A residential customer who is the customer of a REP that has obtained a current list from the Low-Income List Administrator (LILA) A residential customer currently enrolled in the LITE-UP Texas program~~ may be eligible for additional deposit assistance. (See paragraph 3, under Cash Deposit.)

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If these conditions do not apply, LSP may require a cash deposit unless you can demonstrate to the LSP any of the following prior to the due date of the cash deposit: 1) you are 65 years of age or older and you are not currently delinquent in payment of any electric service account; 2) you are a victim of family violence as defined by the Texas Family Code § 71.004, and as determined 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 LSP.

*[Insert toll-free FAX Number]*

\*\* To be considered medically indigent, the customer must demonstrate 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.

#### CASH DEPOSIT

- 1) Your cash deposit, if required, may not exceed one fifth (1/5) of your estimated annual billing. You may also be required, in the future, to pay an 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 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) LSP may require a deposit to be provided after 15 calendar days of service if you receive 10 days' notice that a deposit is required.
- 3) A customer ~~who is currently enrolled in LITE UP Texas (Low Income Telephone and Electric Utilities Program)~~ may pay the initial cash deposit to LSP in two installments if the deposit exceeds \$50. The first installment shall not exceed one-tenth (1/10) of the estimated annual billing and shall be due within ten calendar days of LSP'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 calendar days of the issuance of the original written notice. ~~For more information regarding LITEUP Texas, contact LSP or call toll-free 1-866-4-LITEUP (1-866-454-8387) to determine eligibility or to receive an application.~~
- 4) 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 LSP for the term in which the guarantee is in effect. If the guarantor fails to become, or ceases to be, a customer of the LSP, the LSP may require the customer to pay the initial or additional cash deposit as a condition of continuing the contract for service.

- 5) 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 LSP 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 calendar days from the date the notice is issued to pay the amount owed on the defaulted account. If the 16<sup>th</sup> day falls on a holiday or weekend, the due date shall be the next business day. The LSP 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.
- 6) The LSP may initiate disconnection of service to the guarantor for nonpayment of the guaranteed amount within ten calendar days of issuance of a notice of disconnection.
- 7) Your service may be disconnected for failure to pay the required cash deposit within ten calendar days of issuance of a notice of disconnection of service.
- 8) A disconnection notice may be issued concurrently with either the written request for the cash deposit or current monthly bill for electric service. Disconnection means a physical interruption of electric service.
- 9) You will accrue interest on your cash deposit(s) with LSP. Each year in December, the PUCT establishes the interest rate LSP will apply to your cash deposit for the next calendar year.
- 10) 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 LSP.
- 11) Your cash deposit and accrued interest will be refunded if you pay your bills for 12 consecutive months without having any late payments. A REP may refund the deposit to you through a bill credit.
- 12) 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.

### 3. BILLING

- 1) You will be billed for the amount of electricity that you consume.
- 2) Billing statements will reflect the total charges for POLR services provided by LSP.

- 3) Your bill will be due upon receipt and will be considered delinquent if it is not paid by the 16<sup>th</sup> day after issuance of the bill.
- 4) The LSP or a REP affiliated with the LSP shall offer a level or average payment plan if you are not currently delinquent. You may be required to select a competitive product offered by the LSP or a REP affiliated with the LSP to receive the level or average payment plan. LSP offers deferred and level payment (also known as budget) plans. Please contact LSP at the 24-hour customer service number below for information about these options.
- 5) [Insert toll-free phone Number]

**4. 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:

You must pay non-recurring fees charged by the transmission and distribution utility (TDU) that are necessary to implement and/or maintain electric service for you. Non-recurring fees by the TDU may include service connection, disconnection or reconnection fees, or meter test fees. Non-recurring fees will appear as line items on your bill.

You must pay all applicable taxes and any fees charged by any governmental entity.

You must pay any other REP fees disclosed [on the EFL or below and referenced on the EFL]. {Instruction: REP's fees must be the same as those fees routinely applied to other residential customers }

Service Charges and Fees	Amount
<b>Account History charge</b> 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. <del>The</del> <del>if you are a low income customer,</del> the first two premise usage histories provided on your behalf to an agency	\$25.00

Service Charges and Fees	Amount
providing bill payment assistance shall not be counted in determining whether you are subject to an account history charge	
<b>Collection Letter charge</b> for processing a registered or certified letter demanding payment of past due accounts.	\$15.00
<b>Disconnection charge</b> for disconnection of service pursuant to TDU’s tariffs.	[Insert pass through charge from TDU ]
<b>Account Reinstatement fee</b> for handling accounts for reconnection after disconnection for non-payment (in addition to any applicable disconnect or reconnect charges).	No charge
<b>Equipment charge</b> for providing testing, monitoring or other special equipment at the request of the customer.	[Insert pass through charge from TDU]
<b>Reconnection charge</b> for reconnection of service pursuant to TDU’s tariffs.	[Insert pass through charge from TDU]
<b>Late fees</b> 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
<b>Return check charge</b> for each check returned for insufficient funds.	\$25.00
<b>Tampering charge</b> 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 TDU]
<b>Disconnection Reminder Notification</b> 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

LSP reserves the right to charge for court costs, legal fees, and other costs associated with collection of delinquent amounts.
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LSP 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 TDU.
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## 5. 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 is not paid on or before the 16<sup>th</sup> day after issuance of the bill. If your account becomes delinquent, your service may be disconnected ten calendar 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.
- c) Service may not be reconnected by the LSP until all delinquent amounts and charges owed to LSP have been paid and credit has been re-established.
- 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 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, 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 3 **BILLING** and section 4 **SERVICE CHARGES AND FEES** of this agreement up to the date your service is disconnected.
- f) A disconnection notice may be issued concurrently with the written requests for the cash deposit.
- g) A disconnection notice may be issued concurrently with your bill.
- h) LSP cannot disconnect your electric service until you are a customer of the LSP.

**6. 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.

The TDU, any previous retail electric provider, or the Independent Organization may provide LSP information about your electric service, 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.

The LSP may release your customer payment information to credit reporting agencies, regulatory agents, agents of LSP, energy assistance agencies, law enforcement agencies or the TDU.

The LSP may use credit-reporting agencies to evaluate your credit history consistent with applicable law.

**7. LENGTH OF AGREEMENT**

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

No term of service is required for POLR service unless by mutual agreement a term is agreed to in writing between you and LSP or unless you enter a level payment plan or deferred payment plan. If you decide to be placed on LSP’s Level or Deferred Payment Plans, 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. If you decide to be placed on LSP’s 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.

**8. CONTACT INFORMATION**

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

You may contact LSP if you have a dispute concerning your bill or your service from LSP. 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 LSP 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 LSP shall, for a period of 30 calendar days following LSP'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**

Assistance ~~Rate discounts and other assistance~~ programs may be available for qualified low-income customers. For more information, contact LSP 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 LSP (optional):* in cash through an agent authorized by the LSP], or automatic draft from your financial institution. If you choose to make payment by means of electronic funds transfer or automatic draft, you must contact the LSP's Customer Service number to begin those options for bill payment at no cost.

If you have had two or more personal checks unpaid by your financial institution within the last 12 months, LSP may 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 your payment has been declined, rejected or charged back two or more times within the last 12 months, LSP will require all further payments to be by cash, cashier's check or money order.

**11. FORCE MAJEURE**

LSP 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 TDU.

**12. LIMITATION OF LIABILITY**

NEITHER YOU NOR THE LSP SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES. ANY LIABILITIES OF THE POLR NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES. NOTWITHSTANDING THE FOREGOING, THE POLR PROVIDER HAS NO OWNERSHIP, RIGHT OF CONTROL, OR DUTY TO THE TDU, RETAIL CUSTOMER, OR OTHER THIRD PARTY, REGARDING THE DESIGN, CONSTRUCTION, OR OPERATION OF THE TDU'S DELIVERY SYSTEM. THEREFORE THE POLR PROVIDER SHALL NOT BE LIABLE TO ANY PERSON OR ENTITY FOR ANY DAMAGES, DIRECT, INDIRECT, OR CONSEQUENTIAL, INCLUDING, BUT WITHOUT LIMITATION, LOSS OF BUSINESS, LOSS OF PROFITS, OR REVENUE, OR LOSS OF PRODUCTION CAPACITY, OCCASIONED BY ANY FLUCTUATIONS OR INTERRUPTIONS OF DELIVERY SERVICE CAUSED, IN WHOLE OR IN PART, BY THE DESIGN, CONSTRUCTION, OR OPERATION OF THE TDU'S DELIVERY SYSTEM.

**13. REPRESENTATIONS AND WARRANTIES**

LSP 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)(1), 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."

LSP 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**

LSP 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.

§25.45. Low-Income List Administrator.

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(a) Purpose. The purpose of this section is to define the responsibilities of the Low-Income List Administrator (LILA) to establish and maintain a list of eligible low-income customers and to specify the process for a retail electric provider (REP) who voluntarily seeks to obtain such list from the LILA pursuant to Public Utility Regulatory Act (PURA) §17.007.

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(b) Application. This section applies to the LILA, which has been contracted by the commission to administer aspects of the low-income customer identification process established under PURA §17.007 in cooperation with the Texas Health and Human Services Commission (HHSC). This section also applies to REPs that provide electric service in an area that has been opened to customer choice that voluntarily seek to obtain the list of low-income customers from the LILA.

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

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(1) “Electric utility” has the meaning assigned by PURA §31.002.

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(2) “Low-Income List Administrator” means a third-party administrator contracted by the commission to administer aspects of the low-income customer identification process established under PURA §17.007.

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(3) “Retail electric provider” means a person that sells electric energy to retail customers in this state after the Texas Legislature authorizes a customer to receive retail electric service from a person other than a certificated retail electric utility.

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(d) Identification of the LILA. The commission may contract with a third-party vendor to administer aspects of the low-income identification process established under PURA §17.007 in cooperation with HHSC. The commission may delegate this authority to the executive director.

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(e) Customer identification process. The LILA shall identify eligible low-income customers through a monthly automatic identification process in cooperation with HHSC.

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(1) Automatic identification is an electronic process to identify customers eligible for the low-income list by matching client data from the HHSC with residential customer-specific data from REPs.

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(A) HHSC shall provide client information to the LILA in accordance with subsection (f)(1) of this section.

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(B) REPs shall provide customer information to the LILA in accordance with subsection (f)(3) of this section.

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(C) The LILA shall compare the customer information from HHSC and REPs, create files of matching customers and notify the REPs of their eligible customers.

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(2) Automatically identified customers shall continue to be included on the LILA's list of eligible low-income customers as long as the customers receive HHSC benefits. Once a customer no longer receives HHSC benefits, the customer will no longer be included on the LILA's list of low-income customers that is sent to the customer's REP.

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(f) Responsibilities. In addition to the requirements established in this section, program responsibilities for the LILA may be established in the commission's contract with the LILA; program responsibilities for tasks undertaken by HHSC may be established in the memorandum of understanding between the commission and HHSC.

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(1) HHSC's responsibilities. HHSC shall assist in the implementation and maintenance of the automatic enrollment process by providing a database of customers receiving HHSC benefits as detailed in the memorandum of understanding between HHSC and the commission.

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(2) The LILA's responsibilities. The LILA shall:

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(A) receive customer lists from REPs on a monthly basis through data transfer;

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(B) retrieve the database of clients from HHSC on a monthly basis;

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(C) establish a list of eligible customers, by comparing customer lists from the REPs with HHSC databases and identifying customer records that reasonably match;

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(D) make available to each REP, on a date prescribed by the commission on a monthly basis, a list of eligible low-income customers; and

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(E) protect the confidentiality of the customer information provided by the REPs and the client information provided by HHSC.

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(3) A REP's responsibilities. A REP that voluntarily seeks to obtain a list of eligible low-income customers shall:

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(A) provide residential customer information to the LILA through data transfer on a date prescribed by the commission on a monthly basis. The customer

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information shall include, to the greatest extent possible, each full name of the primary and secondary customer on each account, billing and service addresses, primary and secondary social security numbers, primary and secondary telephone numbers, Electric Service Identifier (ESI ID), service provider account number, and premise code;

(B) retrieve from the LILA the list of eligible low-income customers; and

(C) assist the LILA in working to resolve issues concerning customer eligibility.

(g) Confidentiality of information.

(1) The data acquired from HHSC pursuant to this section is subject to a HHSC confidentiality agreement.

(2) All data transfers from REPs to the LILA pursuant to this section shall be conducted under the terms and conditions of a standard confidentiality agreement to protect customer privacy and REP's competitively sensitive information.

(3) The LILA may use information obtained pursuant to this section only for purposes prescribed by commission rule.

(h) Annual election process. The commission shall maintain a project in which REPs may elect to obtain the low-income matching list from the LILA. As part of this project, the commission may delegate to the executive director the authority to establish and oversee the collection of the fees by which the electing REPs shall pay the LILA's annual fee for the development of the list of eligible low-income customers under PURA §17.007(d)(2).

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**§25.107. Certification of Retail Electric Providers (REPs).**

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(a)-(e) (No change.)

**(f) Financial requirements.**

(1)-(5) (No change.)

(6) Proceeds from an irrevocable stand-by letter of credit.

(A) Proceeds from an irrevocable stand-by letter of credit provided under this subsection may be used to satisfy the following obligations of the REP, in the following order of priority:

~~{(i) first, to pay the deposits to retail electric providers that volunteer to provide service in a mass transition event under §25.43 of this title (relating to Provider of Last Resort (POLR)) of low income customers enrolled in the system benefit fund rate reduction program pursuant to §25.454(f) of this title (relating to Rate Reduction Program);}~~

~~{(ii) second, to pay the deposits to retail electric providers that do not volunteer to provide service in a mass transition event under §25.43 of this title of low income customers enrolled in the system benefit fund rate reduction program pursuant to §25.454(f) of this title;}~~

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(i) first, ~~[(iii) third, ]~~for customer deposits and residential advance payments of customers~~[that did not benefit from clause (i) or (ii) of this subparagraph];~~

(ii) second, ~~[(iv) fourth, ]~~for services provided by the independent organization related to serving customer load;

(iii) third, ~~[(v) fifth, ]~~for services provided by a TDU; and

(iv) fourth, ~~[(vi) sixth, ]~~for administrative penalties assessed under Chapter 15 of PURA.

(B) (No change.)

(g)-(j) (No change.)

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**§25.181. Energy Efficiency Goal.**

(a)-(q) (No change.)

(r) **Targeted low income energy efficiency program.** Each unbundled transmission and distribution utility shall include in its energy efficiency plan a targeted low-income energy efficiency program~~[ Unless funding is provided under PURA §39.903, each unbundled transmission and distribution utility shall include in its energy efficiency plan a targeted low income energy efficiency program as described by PURA §39.903(f)(2)].~~ A utility in an area in which customer choice is not offered may include in its energy efficiency plan a targeted low-income energy efficiency program that utilizes the cost-effectiveness methodology provided in paragraph (2) of this subsection. Savings achieved by the program shall count toward the utility’s energy efficiency goal.

(1)-(3) (No change.)

(s)-(x) (No change.)

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**§25.344. Cost Separation Proceedings.**

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

(c) **Compliance and timing.**

(1) All electric utilities must file a cost separation case under this section on or before April 1, 2000 according to a unbundled cost of service rate filing package (UCOS-RFP) approved by the commission. Each electric utility shall, in its cost separation filing, file proposed tariffs for its proposed transmission and distribution utility. The filings shall include supporting cost data for the determination of the utility's non-bypassable delivery charges, which shall be the sum of transmission charges, distribution charges, metering system service charges, billing system service charges, customer service system charges (if any), municipal franchise charges, nuclear decommissioning charges (if any), and a competition transition charge (if any)~~[, and a system benefit fund fee].~~

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(2) Notwithstanding any other provision in this section, an electric utility not subject to this section until the expiration of the exemption set forth in PURA §39.102(c), must file its cost separation case on or before 170 days prior to the expiration of the exemption.

(d)-(e) (No change.)

~~[(f) System benefit fund fee.]~~

- ~~[(1) The system benefit fund fee will be established and implemented by the commission as described in PURA §39.901 and §39.903.]~~
- ~~[(2) Each utility shall identify the historic year costs associated with a reduced rate for low income customers, targeted energy efficiency programs for low income customers, customer education programs, and the property taxes paid to school districts. Total costs will be reported in the unbundled cost of service studies as a separate line item (or subaccount) in each account where such costs occur. In the forecasting process, historic year costs shall be adjusted to account for future recovery of costs for these expenses through the system benefit fee rather than rates.]~~
- ~~[(3) System benefit fund costs shall include costs for the following:]
  - ~~[(A) A low income rate for firm service which is lower than the regular residential rate and which is exclusively made available to customers whose household income is not more than 125% of the federal poverty guidelines and/or customers who receive food stamps from the Texas Department of Human Services or medical assistance from a state agency administering a part of the medical assistance program.]~~
  - ~~[(B) Low income energy efficiency programs administered by the Texas Department of Housing and Community Affairs in coordination with existing weatherization programs.]~~
  - ~~[(C) Customer education programs developed pursuant to PURA §39.902.]~~~~

~~{(D) Estimates of the amount of property tax payments that will be lost by school districts statewide because of electric utility restructuring.}~~

~~{(E) Any other item allowed by law.}~~

~~{(4) The amount of the system benefit fund fee shall be set by the commission pursuant to PURA §39.903(b). Utilities should make initial filings under this rule assuming that the system benefit fund fee will equal \$.50 per MWh.}~~

~~(f)(g)~~ **Separation of affiliate costs and functional cost separation.**

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(1) **Affiliate costs.**

(A) **Separation of affiliate costs.** The affiliate schedules accompanying the UCOS-RFP shall provide sufficient detail to enable the commission to evaluate the necessity and reasonableness of the affiliate expenses and the "no higher than" cost provisions of PURA §36.058 (relating to Consideration of Payment to Affiliate); §25.272 of this title (relating to Code of Conduct for Electric Utilities and Their Affiliates); and §25.273 of this title (relating to Contracts Between Electric Utilities and Their Affiliates). The schedules shall provide the net total amount of affiliate expense requested for each of the historic and forecast years. This information shall be provided by class of items for all affiliate transactions between the transmission and distribution utility and its affiliates including the affiliated power generation company and the affiliated retail electric provider.

- (B) **Affiliated service company.** If there is an affiliated service company providing support to the regulated transmission and distribution utility and the other affiliates, then the UCOS-RFP shall include the transactions between the service company, the regulated transmission and distribution utility, the power generation company, the retail electric provider, and all the other affiliates pursuant to PURA §14.154. The UCOS-RFP shall include detailed information on allocation formulas as defined by the reporting schedules.
- (C) **Compliance with affiliate rules.** The affiliate transactions reported in the UCOS-RFP shall comply with the code of conduct rules as promulgated in §§25.84 of this title (relating to Annual Reporting of Affiliate Transactions for Electric Utilities), 25.272 of this title, and 25.273 of this title.
- (2) **Functional cost separation.** All electric utilities shall separate their costs into nine categories, relating to the following functions, as defined by §25.341 of this title (relating to Definitions):
- (A) generation;
  - (B) transmission;
  - (C) distribution;
  - (D) transmission and distribution utility metering system services;
  - (E) transmission and distribution utility billing system services;
  - (F) additional retail billing services;
  - (G) transmission and distribution utility customer service;
  - (H) competitive energy service; and

(I) other unregulated services.

(3) **Method of cost separation.** Costs shall be assigned to the nine functions using the following three-tier process. No common costs shall be assigned to regulated functions by default. If the utility cannot meet its burden of proof, the costs in question shall be assigned to competitive functions.

(A) For each Federal Energy Regulatory Commission (FERC) account, costs shall be directly assigned to functions to the extent possible, and all relevant workpapers provided.

(B) The utility shall provide detailed workpapers documenting the nature of any costs that cannot be directly assigned. For adequately documented costs, the utility may derive an account-specific functionalization factor based on the directly assigned costs or appropriate cost causation principles. The utility must justify the assignment of common costs to regulated functions, and must present evidence to support any such assignment.

(C) If adequately documented costs remain for which direct assignment or account-specific functionalization cannot be identified, an appropriate functionalization factor as described in the UCOS-RFP may be used. These functionalization factors should only be used as a last resort. If a utility deems a functionalization factor other than the functionalization factor prescribed in the UCOS-RFP to be necessary, the utility shall provide a detailed justification for the chosen functionalization factor.

~~(g)~~ **Jurisdiction and Texas retail class allocation.** Allocation of each of the functions comprising the transmission and distribution system services revenue requirement to the existing rate classes shall be based on forecasted 2002 test year load data. Costs related to other functions may be allocated based on a test year ending September 30, 1999.

- (1) **Jurisdictional allocation.** Functionalized total company costs for the forecast year shall be allocated to the Texas retail jurisdiction. Jurisdictional allocators shall be based on either the methodology approved by the Federal Energy Regulatory Commission (FERC), or the methodology used in the last commission-approved cost of service study.
- (2) **Texas retail class allocation.** Total Texas retail jurisdiction costs for each of the nine categories shall be allocated among existing rate classes. Consolidation of classes shall be done only during the rate design process.
  - (A) **Transmission revenue requirement (system services).** Electric Reliability Council of Texas (ERCOT) utilities shall allocate the total transmission revenue requirement based on the average of the four coincident peaks for each existing rate class at the time of ERCOT peak, if that data is available. If that data is not available, the utility may use the average of the four coincident peaks for each existing rate class at the time of the transmission and distribution utility's system peak. Non-ERCOT utilities shall allocate transmission revenue requirement based on either the FERC-approved methodology or the methodology approved in the last commission-approved cost of service study.

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- (B) **Distribution revenue requirement (system services).** Costs purely related to demand or customers shall be allocated based on the methodology used in the last cost of service study unless otherwise determined by the commission. Other costs shall be allocated based on allocators analogous to those used during the functionalization process, or appropriate cost-causation principles.
- (C) **Generation costs.** Total generation costs shall be allocated to the existing rate classes based on the methodology used to allocate generation costs in the last cost of service study.
- (D) **Retail electric provider costs.** Total costs of services which will be provided by the retail electric provider as approved in the business separation plan shall be allocated among classes based on the allocators used in the last cost of service study.
- (E) **Decommissioning costs.** Costs associated with nuclear decommissioning obligations shall be allocated based on the methodology used in the last cost of service study unless otherwise approved by the commission. Total costs shall be reported in the unbundled cost of service studies as a separate line item (or subaccount) in each account where such costs occur.

~~(F) **System Benefit Fund (SBF) Fee.** The SBF fee shall be allocated among customers based on the customer's actual kilowatt hours used, as measured at the meter and adjusted for voltage level losses.~~

~~(h)(4)~~ **Determination of ERCOT and Non-ERCOT transmission costs.**

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- (1) **ERCOT transmission costs.**
  - (A) The transmission cost of service for an electric utility in ERCOT shall be as described in §25.192(b) of this title (relating to Transmission Service Rates).
  - (B) The UCOS-RFP adopted by the commission for the cost separation filings shall be used by the electric utilities filing under this section.
  - (C) Any redirection of transmission depreciation expense to production by an electric utility in ERCOT pursuant to PURA §39.256 should not affect the utility's wholesale transmission cost of service that is used for determining the ERCOT postage stamp rate.
- (2) **Non-ERCOT transmission costs.** For an electric utility in Texas operating outside ERCOT, the utility's open access transmission tariff approved by FERC will be used to determine the utility's transmission cost and rates in Texas.

(i) ~~(g)~~ Rate design. Utilities shall consolidate existing rate classes into the minimum number of classes needed to recognize differences in usage of the transmission and distribution systems. Class consolidation shall not materially disadvantage any customer class.

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**§25.431. Retail Competition Pilot Projects.**

(a)-(i) (No change.)

(j) **Evaluation of the pilot projects by the commission; reporting.** The commission shall evaluate the pilot projects and the operational readiness of each power region, including its support systems, for customer choice.

(1)-(2) (No change.)

(3) **Reporting by market participants and independent organizations.** Each market participant and independent organization shall file two status reports with the commission under a single project number as designated by the commission's central records division. The first status report shall be filed on November 15, 2001, and the second no later than 30 days following the conclusion of the pilot project. In addition, a utility subject to PURA Chapter 39, Subchapter I, shall file semi-annual reports with the commission for the duration of its pilot project to permit the commission to monitor whether proportional representation is achieved in accordance with subsection (1)(3)(B) of this section.

(A)-(C) (No change.)

(D) Other reporting.

~~[(i) To the extent low income rate discounts are offered in accordance with PURA and commission rules, the number of customers receiving a low income rate discount shall be reported to the commission by the administrator of the system benefit fund.]~~

~~[(ii)]~~ At any time, a pilot project participant who is neither a utility nor a REP may provide the commission with any information the participant

believes will assist the commission in evaluating the pilot projects and the readiness of a power region for implementation of full customer choice.

(4)-(5) (No change.)

(k)-(l) (No change.)

**§25.451. Administration of the System Benefit Fund. (REPEAL)**

**§25.453. Targeted Energy Efficiency Programs. (REPEAL)**

**§25.454. Rate Reduction Program. (REPEAL)**

**§25.455. One-Time Bill Payment Assistance Program. (REPEAL)**

**§25.457. Implementation of the System Benefit Fee by the Municipally Owned Utilities and Electric Cooperatives. (REPEAL)**

**§25.475. General Retail Electric Provider Requirements and Information Disclosures to Residential and Small Commercial Customers.**

(a)-(e) (No change.)

(f) **Terms of service document.** The following information shall be conspicuously contained in the TOS:

(1) (No change.)

(2) **Pricing and payment arrangements.**

(A)-(D) (No change.)

(E) A description of payment arrangements and bill payment assistance programs ~~and low income energy efficiency programs~~ offered by the REP.

(3) **Deposits.** If the REP requires deposits from its customers:

(A)-(C) (No change.)

(D) an explanation of the conditions under which a customer may establish satisfactory credit pursuant to §25.478 of this title (relating to Credit Requirements and Deposits);

(E) the right of a customer or applicant ~~who qualifies for the rate reduction program~~ to pay a required deposit that exceeds \$50 in two equal installments pursuant to §25.478 of this title; and

(F) if applicable, the customer's right to post a letter of guarantee in lieu of a deposit pursuant to §25.478(i) of this title.

(4)-(9) (No change.)

(g) (No change.)

(h) **Your Rights as a Customer disclosure.** The information set out in this section shall be included in a REP's "Your Rights as a Customer" document, to summarize the standard customer protections provided by this subchapter or additional protections provided by the REP.

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

(5) The YRAC document shall inform the customer of the availability of:

(A) Financial and energy assistance programs for residential customers;

(B) Any special services such as readers or notices in Braille or TTY;

(C) Special policies or programs available to residential customers with physical disabilities, including residential customers who have a critical need for electric service to maintain life support systems; and

(D) Any available discounts that may be offered by the REP~~(Discounts)~~ for qualified low-income residential customers.

(6)-(7) (No change.)

(i) (No change.)

**§25.478. Credit Requirements and Deposits.**

(a)-(d) (No change.)

(e) **Amount of deposit.**

(1)-(2) (No change.)

(3) ~~A~~ ~~If a customer or applicant qualifies for the rate reduction program under §25.454 of this title (relating to Rate Reduction Program), then such~~ customer or applicant shall be eligible to pay any deposit that exceeds \$50 in two equal installments. Notice of this option ~~[for customers eligible for the rate reduction program ]~~shall be included in any written notice to a customer from whom~~[requesting ]~~ a deposit is requested.~~[ The customer shall have the obligation of providing sufficient information to the REP to demonstrate that the customer is eligible for the rate reduction program.]~~ The first installment shall be due no sooner than ten days, and the second installment no sooner than 40 days, after the issuance of written notification to the applicant of the deposit requirement.

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(f)-(l) (No change.)

**§25.479. Issuance and Format of Bills.**

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

(c) **Bill content.**

(1) (No change.)

(2) If a REP separately identifies a charge defined by one of the terms in this paragraph on the customer's bill, then the term in this paragraph must be used to identify that 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 this paragraph precludes a REP from aggregating transmission and distribution utility (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 tariff 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, by 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 bill.

(A)-(I) (No change.)

~~{(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.~~

~~(J)(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.

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~~(K)(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.

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

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(3)-(8) (No change.)

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

**§25.480. Bill Payment and Adjustments.**

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

(c) **Penalty on delinquent bills for electric service.**

A REP may charge a one-time penalty not to exceed 5.0% on a delinquent bill for electric service. No such penalty shall apply to residential or small commercial customers served by the provider of last resort (POLR)~~, or to customers receiving a low income discount pursuant to the Public Utility Regulatory Act (PURA) §39.903(h).~~ The one-time penalty, not to exceed 5.0%, may not be applied to any balance to which the penalty has already been applied.

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

(g) **Alternate payment programs or payment assistance.**

(1) (No change.)

(2) **Bill payment assistance programs.**

(A) (No change.)

~~[(B)- In its annual report filed pursuant to §25.107 of this title (relating to Certification of Retail Electric Providers (REPs)), each REP shall summarize:]~~

~~[(i) the total amount of customer donations;]~~

~~[(ii) the amount of money set aside for bill payment assistance;]~~

~~{(iii) the assistance agency or agencies selected to disburse funds to residential customers;}~~

~~{(iv) the amount of money disbursed by the REP or provided to each assistance agency to disburse funds to residential customers; and}~~

~~{(v) the number of customers who had a switch hold applied during the year.}~~

~~(B)~~~~(C)~~ A REP shall obtain a commitment from an assistance agency selected to disburse bill payment assistance funds that the agency will not discriminate in the distribution of such funds to customers based on the customer’s race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, disability, familial status, location of customer in an economically distressed geographic area, or qualification for low-income affordability ~~{the low income discount program}~~ or energy efficiency services.

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(3) (No change.)

(h) **Level and average payment plans.** A REP shall make a level or average payment plan available to its customers consistent with this subsection. A customer receiving service from a provider of last resort (POLR) may be required to select a competitive product offered by the POLR REP to receive the level or average payment plan.

~~{(1) A REP shall make a level or average payment plan available to a residential customer receiving a rate reduction pursuant to §25.454 of this title (relating to Rate Reduction Program), even if the customer is delinquent in payment to the REP.}~~

~~(1)(2)~~ A REP shall make a level or average payment plan available to a customer who is not currently delinquent in payment to the REP. A customer is delinquent in payment in the following circumstances:

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- (A) A customer whose normal billing arrangement provides for payment after the rendition of service is delinquent if the date specified for payment of a bill has passed and the customer has not paid the full amount due.
- (B) A customer whose normal billing arrangement provides for payment before the rendition of service is delinquent if the customer has a negative balance on the account for electric service.

~~(2)(3)~~ A REP shall reconcile any over- or under-payment consistent with the applicable terms of service, which shall provide for reconciliation at least every twelve months. For a customer with an average payment plan, a REP may recalculate the average consumption or average bill and adjust the customer's required minimum payment as frequently as every billing period. A REP may collect under-payments associated with a level payment plan from a customer over a period no less than the reconciliation period or upon termination of service to the customer. A REP shall credit or refund any over-payments associated with a level payment plan to the customer at each reconciliation and upon termination of service to the customer. A REP may initiate its normal collection activity if a customer fails to make a timely payment according to such a level or average payment plan. All details concerning a level or average payment program shall be disclosed in the customer's terms of service document.

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~~(3)~~~~(4)~~ If the customer is delinquent in payment when the level or average payment plan is established, the REP may require the customer to pay no greater than 50% of the delinquent amount due. The REP may require the remaining delinquent amount to be paid by the customer in equal installments over at least five billing cycles unless the customer agrees to fewer installments or may include the remaining delinquent amount in the calculation of the level or average payment amount. If the REP requires installment payments, the REP shall provide the customer a copy of the deferred payment plan in writing as described in subsection (j)(5) of this section.

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~~(4)~~~~(5)~~ If the amount of the deferred balance does not appear on each bill the customer receives, the REP shall inform the customer that the customer may call the REP at any time to determine the amount that must be paid to be removed from the level or average payment plan.

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~~(5)~~~~(6)~~ If the customer is delinquent in payment when the level or average payment plan is established, the REP may apply a switch-hold at that time.

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~~(6)~~~~(7)~~ Before the REP applies a switch-hold to a customer on a level or average payment plan, the REP shall provide orally or in writing a clear explanation of the switch-hold process to the customer, prior to the customer's agreement to the plan. The explanation shall inform the customer as follows: "If you enter into this plan concerning your past due amount, we 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 the total deferred balance. If we put a switch-hold on your account, it will be removed after your deferred balance is paid and processed. While a

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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.”

~~(7)~~~~(8)~~ If the customer is not delinquent in payment when the level or average payment plan is established, a switch-hold shall not be applied unless the plan is established pursuant to subsection (j)(2)(B)(ii) of this section.

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~~(8)~~~~(9)~~ The REP, through a standard market process, shall submit a request to remove the switch-hold, pursuant to subsection (m) of this section, when the customer satisfies either subparagraph (A) or (B) of this paragraph, whichever occurs earlier. On the date the REP submits the request to remove the switch-hold, the REP shall notify or send notice to the customer that the customer has satisfied the obligation to pay any deferred balance owed and the removal of the switch-hold is being processed.

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(A) The customer’s deferred balance, including any deferred delinquent amount described in paragraph (4) of this subsection, is either zero or in an over-payment status.

(B) The customer satisfies the terms of any deferred delinquent amount described in paragraph (4) of this subsection and has paid bills for 12 consecutive billings without having been disconnected and without having more than one late payment.

(i) (No change.)

(j) **Deferred payment plans and other alternate payment arrangements.**

(1) (No change.)

(2) A REP shall make a payment plan available, upon request, to a residential customer that meets the requirements of subparagraph (A) of this paragraph for a bill that becomes due in July, August, or September. A REP shall make a payment plan available, upon request, to a residential customer that meets the requirements of subparagraph (A) of this paragraph for a bill that becomes due in January or February if in the prior month a TDU notified the commission pursuant to §25.483(j) of this title of an extreme weather emergency for the residential customer’s county in the TDU service area for at least five consecutive days during the month. A REP is not required to offer a payment plan to a customer pursuant to this paragraph if the customer is on an existing deferred, level, or average payment plan.

(A) The following residential customers are eligible for a payment plan under this paragraph:

~~{(i) customers receiving the LITE UP discount pursuant to §25.454 of this title;}~~

(i)~~{(ii)}~~ customers designated as Critical Care Residential Customers or Chronic Condition Residential Customers under §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); or

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(ii) ~~(iii)~~ customers who have expressed an inability to pay unless the

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customer:

- (I) has been disconnected during the preceding 12 months;
- (II) has submitted more than two payments during the preceding 12 months that were found to have insufficient funds available; or
- (III) has received service from the REP for less than three months, and the customer lacks:
  - (-a-) sufficient credit; or
  - (-b-) a satisfactory history of payment for electric service from a previous REP or utility.

(B)-(C) (No change.)

(3)-(8) (No change.)

(k)-(m) (No change.)

(n) **Annual reporting requirement.** In its annual report filed pursuant to §25.107 of this title

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(relating to Certification of Retail Electric Providers (REPs)) and §25.491 of this title (relating to Record Retention and Reporting Requirements), each REP shall include a statement summarizing any payment options and payment assistance programs that are offered by or available from the REP, such as bill payment assistance, deferred payment plans, disconnection moratoriums for the ill, or low-income energy assistance programs.

(1) Information regarding a REP's bill payment assistance program created pursuant to subsection (g) of this section shall include:

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(A) the total amount of customer donations;

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(B) the amount of money set aside for bill payment assistance;

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(C) the assistance agency or agencies selected to disburse funds to residential customers;

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(D) the amount of money disbursed by the REP or provided to each assistance agency to disburse funds to residential customers; and

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(E) the number of customers who had a switch-hold applied during the year.

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(2) Each REP shall indicate in its annual report whether it has obtained or intends to obtain a current list from the Low Income List Administrator that identifies eligible low-income customers for the next fiscal year.

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~~{(n) Effective date. The effective date of this section is June 1, 2011.}~~

**§25.491. Record Retention and Reporting Requirements.**

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

(c) **Annual reports.** In its annual report, a REP shall report the information required by §25.107 of this title (relating to Certification of Retail Electric Providers (REPs)) to the commission and the Office of Public Utility Counsel (OPUC) and the following additional information on a form approved by the commission for the 12-month period ending December 31 of the prior year:

(1)-(3) (No change.)

(4) Information relating to the REP's bill payment assistance program for residential electric customers required by ~~§25.480(n)(1)~~~~§25.480(g)(2)(B)~~ of this title (relating to Bill Payment and Adjustments);

(5)-(6) (No change.)

(d) **Information regarding payment options and payment assistance programs.** With its annual report, a REP shall include a statement containing the information described in §25.480(n) of this title to the extent such information is not included in the form approved by the commission pursuant to subsection (c) of this section.

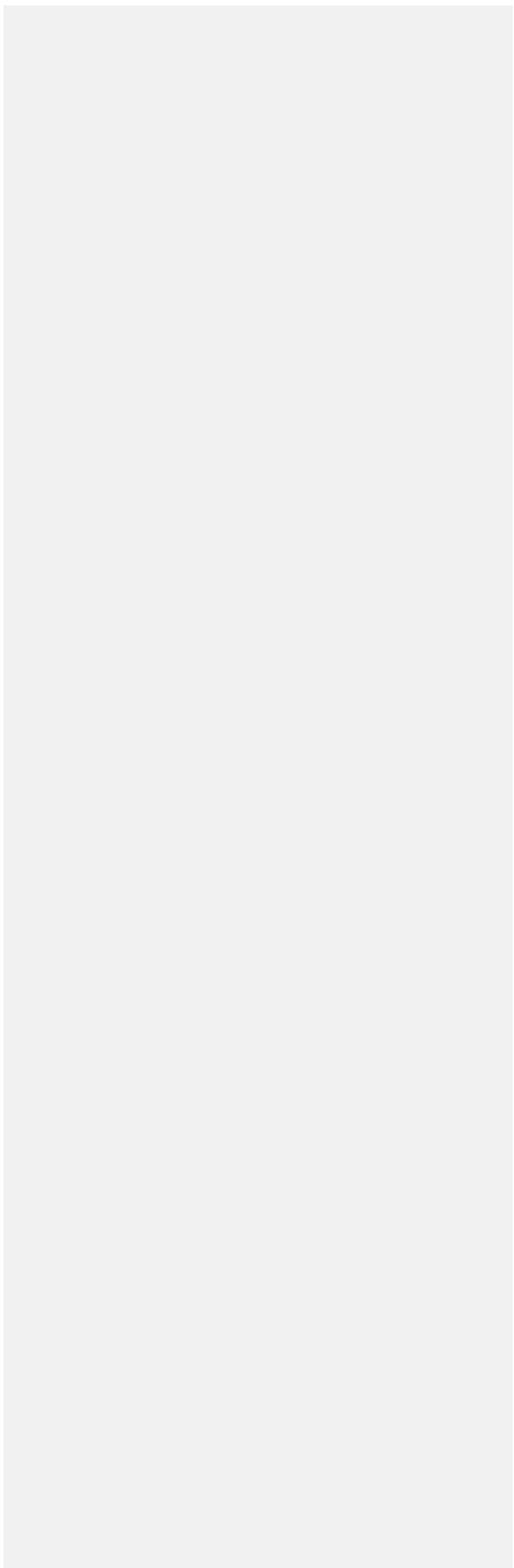
~~(e)(d)~~ **Additional information.** Upon written request by the commission, a REP or aggregator shall provide within 15 days any information, including but not limited to marketing

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information, necessary for the commission to investigate an alleged discriminatory practice prohibited by §25.471(c) of this title (relating to General Provisions of the Customer Protection Rules).



**§25.497. Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers.**

(a)-(c) (No change.)

(d) **Notice to customers concerning Critical Care Residential Customer and Chronic Condition Residential Customer status.**

(1) (No change.)

(2) All REPs that serve residential customers shall provide information about Critical Care Residential Customer and Chronic Condition Residential Customer designations to each residential customer two times a year. ~~The REP may include the information related to the low income rate reduction program in the same notification.~~

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(3) (No change.)

(e)-(i) (No change.)

**§25.498. Prepaid Service.**

(a)-(g) (No change.)

**(h) Summary of usage and payment (SUP).**

(1) (No change.)

(2) A SUP shall include the following information:

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

(F) an itemization of non-recurring charges, including returned check fees and reconnection fees; and

(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)-(I) (No change.)

~~(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.~~

~~(J)~~~~(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.

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~~(K)~~~~(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.

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

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(4)-(6) (No change.)

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(i)-(m) (No change.)

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 19th DAY OF DECEMBER 2017 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**

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