

PROJECT NO. 48337

RULEMAKING TO AMEND	§	PUBLIC UTILITY COMMISSION
16 TAC 25.45 TO PROVIDE FOR	§	
A LILA OPT-IN PROCESS	§	OF TEXAS
	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.45
AS APPROVED AT THE JANUARY 17, 2019 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes to amend 16 TAC §25.45, relating to the low-income list administrator (LILA). The proposed amendment will modify §25.45 to provide a process for a Retail Electric Provider (REP) to request development of a list of low-income customers. This proposed amendment continues implementation of Senate Bill 1976 of the 85th Regular Legislative Session, which provides that the commission may not submit a request to the Health and Human Services Commission to develop a list of low-income electric customers unless the commission receives a request from one or more REPs not later than July 31 of the previous fiscal year, and each REP that submits a request to the commission agrees to reimburse the commission for the cost of the development of the list. Project Number 48337 is assigned to this proceeding.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

(1) the proposed rule will not create a government program and will not eliminate a government program;

(2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed rule will not create a new regulation;

(6) the proposed rule will not expand, limit, or repeal an existing regulation;

(7) the proposed rule will not change the number of individuals subject to the rule's applicability; and

(8) the proposed rule will not affect this state's economy.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Diana Zake, Director, Market Analysis, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections.

Public Benefits

Diana Zake, Director, Market Analysis, has also determined that for each year of the first five years the proposed section is in effect, the anticipated public benefits expected as a result of the adoption of the proposed rule will be clarification of the process for a REP to obtain a list of low-income customers. There will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the Public Utility Commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking, if requested in accordance with 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 within 30 days after publication.

Public Comments

Comments on the proposed amendment may be filed with the commission's filing clerk at 1701 North Congress Avenue, Austin, Texas or mailed to P.O. Box 13326, Austin, TX 78711-3326, within 30 days after publication. Sixteen copies of comments to the proposed amendment are required to be filed by §22.71(c) of 16 Texas Administrative Code. Reply comments may be submitted within 45 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission will consider the costs and benefits in deciding whether to adopt the rule. All comments should refer to project number 48337.

Statutory Authority

This amendment is proposed under §14.002 of the Public Utility Regulatory Act, Tex. Util. Code, which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and §17.007 of the Public Utility Regulatory Act, Tex. Util. Code, which requires the commission to develop a process for

identifying low-income customers if a retail electric provider that requests a list agrees to reimburse the commission for the cost of developing the list.

Cross reference to statutes: Public Utility Regulatory Act §§14.002 and 17.007.

§25.45. Low-Income List Administrator.

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

(f) **Delegation of authority. The**~~Identification of the LILA and annual election process.~~
~~The commission shall maintain an annual project in which REPs may elect to obtain the low-income customer identification service from the LILA. As part of this project, the~~
commission may delegate to the executive director the authority to contract with a third-party vendor to administer aspects of the low-income customer identification process established under PURA §17.007 in cooperation with HHSC, and to negotiate the LILA's annual fee for the provision of the low-income customer identification service ~~under PURA §17.007(d)(2).~~

(g) **REP annual election process.** REPs may elect to obtain the low-income customer identification service from the LILA on an annual basis.

(1) Not later than May 1 of each year, commission staff will open a project in which a REP may request the low-income customer identification service for the upcoming fiscal year beginning September 1.

(2) A REP must file its request for the low-income customer identification service in the project opened for that purpose not later than July 31 of each year. In its filing, the REP must state its agreement to reimburse the commission for the cost of developing the list.

- (3) Not later than August 31 of each year, if the commission has received a request from one or more REPs under paragraph (2) of this subsection, the commission will enter an order listing the name of each REP that filed a request, and establishing the amount that each REP will pay as determined under paragraph (4) of this subsection.
- (4) Unless otherwise provided by the commission based on the agreement of the REPs requesting to obtain the low-income identification service, the total cost of the low-income customer identification service will be divided equally among the REPs that have filed a request under paragraph (2) of this subsection.
- (5) Provided that at least one REP requests the low-income customer identification service in accordance with paragraph (2) of this subsection, a REP that is newly certificated after July 31 may obtain the low-income customer identification service at no cost until the next program year, when the REP has the opportunity to submit a timely request under paragraph (2) of this subsection. To obtain the low-income customer identification service, the newly-certificated REP must file a request in the project opened under paragraph (1) of this subsection.

This agency 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 22nd DAY OF JANUARY 2019 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**