

PROJECT NO. 38674

**AMENDMENTS TO CUSTOMER § PUBLIC UTILITY COMMISSION
PROTECTION RULES RELATING TO § OF TEXAS
ADVANCED METERS §**

**ORDER ADOPTING AMENDMENTS TO §25.214 AND §25.474
AS APPROVED AT THE OCTOBER 27, 2011 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts amendments to §25.214, relating to Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities (Tariff for Retail Delivery Service), and §25.474, relating to Selection of Retail Electric Provider, with changes to the proposed text as published in the May 13, 2011 issue of the *Texas Register* (36 TexReg 3067). The amendments increase the benefits and functionality of the advanced metering system (AMS) to customers by allowing many service requests for customers served using AMS to be carried out on Saturdays, and requiring transmission and distribution utilities (TDUs) to perform such service requests more quickly. The amendments also make changes relating to prepaid service that include changes that require the retail electric provider (REP) to disclose to the customer that the customer will not receive a bill and may request a summary of usage and payment. This rule is a competition rule subject to judicial review as specified in Public Utility Regulatory Act (PURA) §39.001(e). Project Number 38674 is assigned to this proceeding.

The rapid deployment of advanced meters in areas open to retail competition has provided an opportunity to benefit from the functionality of AMS in ways that allow large numbers of customers to receive better customer service. Significant benefits result from amending §25.214

of this title. An AMS Operational Day is created, which is defined as any day but Sunday or a holiday (Non-Business Day as defined in §25.214). AMS service requests that must be processed during the AMS Operational Day include: Move-In, Move-Out, Reconnect for Non-Pay, and Switch transactions. Same day Move-In and Move-Out will be standard service for customers with a provisioned advanced meter with remote disconnect/reconnect capability. This increased flexibility reduces the risk that customers will be without service when they need it and allows them to save money by scheduling service much closer to the time they require it. Reconnect for Non-Pay will be available at all times and considered standard service where there is a provisioned advanced meter with remote disconnect/reconnect capability. Customers with provisioned advanced meters with remote disconnect/reconnect capability will benefit from an expedited ability to switch from one REP to another. Customers wishing to switch to products with more favorable rates or better suited to their individual needs will now be able to schedule a same day switch. The proposed amendments make it possible for a customer to enjoy the benefits resulting from a same day switch while simultaneously being afforded the protection of the three-day right of rescission.

The TDUs have made progress increasing their success rates for service orders completed remotely. The commission expects these success rates to continue to increase as AMS deployment progresses. The commission anticipates that as the TDUs continue to monitor their system performance on a universal scale and make needed modifications, the resulting increased success rates for service requests completed remotely will make it practical at some point to increase benefits to customers by extending the deadlines even further for receipt of service orders. Therefore, six months after implementation of TX SET 4.0, which will be the date these

amendments to the Tariff For Retail Delivery Service become effective, the Commission shall establish a project for the purpose of a comprehensive review of Section 6.1.2.1 of the tariff. This project shall include, but is not limited to, a review of the timelines for “Premises with a Provisioned Advanced Meter with Remote Disconnect/Reconnect Capabilities” applicable to the following discretionary services in Section 6.1.2.1: Standard Move-in, Priority Move-In, Move-Out, Disconnect for Non-Pay (DNP), and Reconnect After DNP. This review will include an evaluation of whether the deadlines for receipt of requests in those timelines should be extended.

The commission received comments on the proposed amendments from AEP Texas Central Company, AEP Texas North Company, CenterPoint Energy Houston Electric, LLC, Oncor Electric Delivery Company LLC, and Texas-New Mexico Power Company (collectively, Joint TDUs); the REP Coalition; Joint TDUs and REP Coalition (collectively TDUs and REP Coalition); Office of Public Utility Counsel (OPUC); The Electric Reliability Council of Texas (ERCOT); The Steering Committee of Cities served by Oncor (Cities); Texas Energy Association for Marketers (TEAM); and Texas Ratepayers’ Organization to Save Energy (Texas ROSE), Texas Legal Services Center (TLSC), and State Representative Sylvester Turner (collectively, Texas ROSE/TLSC).

The REP Coalition was composed of the Alliance for Retail Markets (ARM); CPL Retail Energy, LP; Reliant Energy Retail Services, LLC; TEAM; WTU Retail Energy, LP; and TXU Energy Retail Company LLC. The participating members of ARM with respect to the REP Coalition comments were: Constellation NewEnergy, Inc.; Direct Energy, LP; First Choice Power Special Purpose, LP; Gexa Energy, LP; and Green Mountain Energy Company. The participating

members of TEAM with respect to the REP Coalition comments were: Accent Energy; Amigo Energy; Bounce Energy; Cirro Energy; Energy Plus; Green Mountain Energy Company; Just Energy; Hudson Energy Services; StarTex Power; Stream Energy; Tara Energy; Texas Power; and TriEagle Energy. TEAM also filed separate comments. These comments are referred to as the comments of TEAM.

Summary of Comments

Section 25.214(d)

Proposed Tariff Section 1

The TDUs and REP Coalition stated that they believe the proposed definition for “Field Operational Day” does not provide the level of clarity needed and proposed a more detailed definition.

Commission response

The commission agrees that the TDUs and REP Coalition’s definition for “Field Operational Day” provides more clarity and adopts the proposed language.

Proposed Tariff Sections: 4.3.2.1, 4.3.12.1, 4.3.12.2, and 5.3.1.1

Texas ROSE/TLSC commented that the language defining discretionary services that puts limits on the timing of requests by REPs and provides timing requirements for the TDUs to act on the requests currently appears in the rule and the Tariff. They noted that the proposed rule deletes language from the rule and amends the standard Tariff. They argued that rules are used more than the Tariffs by those seeking a ready source of information. Texas ROSE/TLSC requested

that the language remain in both the rule and the Tariff. Their stated objective was to ensure that information be easy to find and readily available.

The Joint TDUs replied that it is a misconception that Sections 4.3.2.1, 4.3.12.1, 4.3.12.2, and 5.3.1.1 are a part of the rule while Section 6.1.2.1 is a part of the Tariff. They explained that all of the provisions are part of the Tariff for Retail Delivery Service as adopted in §25.214(d), and there is no difference in the enforceability or procedures for amending these sections. Both the Joint TDUs and the REP Coalition disagreed with Texas ROSE/TLSC's comments regarding the proposed deletions of language in Sections 4.3.2.1, 4.3.12.1, 4.3.12.2, and 5.3.1.1 that are also contained in Section 6.1.2.1. They stated that duplicative language may actually confuse customers and require them to ascertain that the language is the same only after a word by word comparison. They supported the deletion of duplicative language in the proposed rule because it promotes clarity and will make the Tariff more user friendly.

Commission response

The commission agrees with the Joint TDUs and REP Coalition that duplicative language should be removed from proposed Sections 4.3.2.1, 4.3.12.1, 4.3.12.2 and 5.3.1.1. These sections are a part of the Tariff for Retail Delivery Service as adopted in §25.214(d), and are not located in the text of the rule as stated by Texas ROSE/TLSC. Placing language regarding Charges Billed by Company to Competitive Retailer solely in Section 6.1.2.1 will promote clarity, make the Tariff more user friendly, and have no effect on the enforceability or procedures that could be used to amend the Tariff in the future. The commission does not agree with Texas ROSE/TLSC that this language should remain in

several places, but instead supports a version of the Tariff that reduces the opportunity for contradiction and confusion. The commission makes no changes to these sections.

Proposed Tariff Section 6.1.2.1

Headings

The TDUs and REP Coalition noted that the proposed language under Standard Move-In, Priority Move-In, Move-Out, and Disconnect/Reconnect for Non-Pay provides the requirements first for “Premises with a Provisioned Advanced Meter with Remote Disconnect/Reconnect Capabilities” and then for “Premises without a Provisioned Advanced Meter with Remote Disconnect/Reconnect Capabilities.” The TDUs and REP Coalition proposed that the latter heading be clarified and shortened to “All Other Premises.”

Commission response

The commission agrees with the TDUs and the REP Coalition that shortening the heading as proposed promotes clarity, and makes the requested changes.

Placeholder Charges

The Joint TDUs explained that in some instances a TDU will continue to have a discretionary charge for a service provided to a customer with an advanced meter after the amendments to the tariff become effective. The REP Coalition agreed and both requested that a place-holder of \$x.xx be inserted into Section 6.1.2.1 where Discretionary Charges for Standard Move-In, Priority Move-In, Disconnect for Non-Pay, Reconnect after DNP, and Out of cycle Meter Read for the Purpose of a Self Selected Switch are described.

Texas ROSE/TLSC suggested that no change be made to the proposed rule regarding Out of Cycle Meter Reads.

Commission response

The commission agrees with the Joint TDUs and REP Coalition. Therefore, in order to properly reflect the requirements of the final orders approving the TDUs' AMS deployment plans, the commission inserts a placeholder charge of \$x.xx for Standard Move-In, Priority Move-In, Disconnect for Non-Pay, Reconnect after DNP, and Out of Cycle Meter Read for the Purpose of a Self Selected Switch.

The commission does not agree with Texas ROSE/TLSC's request to make no change to the proposed amendments for Out of Cycle Meter Reads, but rather concludes that it should address the fact that each TDU's required rate reductions to discretionary service charges differ from year to year pursuant to the final orders for their respective AMS deployment plans.

Connection Charges (Move-In) and Priority Move-In

The Joint TDUs and the REP Coalition agreed on the timeline applicable to Priority Move-In. However, the Joint TDUs requested that a new provision be added to Section 6.1.2.1 stating that the TDU may propose a charge applicable to a request for Priority Move-In for a customer with a provisioned advanced meter. The proposed rule requires that the TDU offer a Priority Move-In provided that the request is received by 5:00 PM on a Business Day even if the TDU is unable to

successfully communicate with the meter. This is in contrast to a Standard Move-In, which states that in the event that the TDU is unable to communicate with a provisioned advanced meter, the TDU is required to complete the order that day if received by 2:00 PM. The Joint TDUs opined that unless they have a specific charge applicable to Priority Move-In service, every Move-In order will likely be sent as a Priority Move-In. They explained that this will make the 2:00 PM deadline included in the rule for Standard Move-In requests ineffectual, and the Priority service will become the standard service. They noted that although the TDUs currently have a Priority Move-In charge, for at least one TDU this charge will eventually be reduced to zero under the terms of the deployment plan and leave no opportunity to recover the cost of after-hours field activity that may be required. They argued that it is important to include language in the rule stating that a TDU may propose a Priority Move-In charge in order to overcome language in the deployment plan that might erroneously be interpreted as prohibiting a charge for the service.

The REP Coalition opposed the Joint TDUs' proposal and maintained that the proposed amendment's same day reconnection requirement for all Priority Move-In requests, irrespective of the remote communication capability of the provisioned advanced meter, does not justify a new charge. The Coalition opined that the Joint TDUs' request is contrary to negotiated settlements and commission orders approving the settlements in the TDUs' AMS deployment plans. In addition, they claimed that imposing an extra fee for same day service at premises with a provisioned advanced meter runs counter to the touted benefits of AMS technology and imposition of AMS surcharges. The REP Coalition contended that there are other avenues

through which a TDU can recover any incremental costs resulting from fulfilling this requirement.

Texas ROSE/TLSC recommended that all priority and/or same day fees for customers with provisioned advanced meters be eliminated. In addition, they requested that the TDUs be required to meet the standard service terms of the tariff even when the AMS communication system is not working and that language that describes alternative standards for a provisioned advanced meter that fails to communicate be eliminated. Texas ROSE/TLSC noted that to guarantee same day service when there is a communication failure, a customer is required to pay a priority fee. They argued that the proposed tariff holds the TDU harmless for meeting performance objectives and allows the customer to receive a much lower quality of service at a higher price. Texas ROSE/TLSC stated that the proposed rule will only benefit customers if the TDU is responsible for keeping the same standards for a provisioned advanced meter whether communicating or not. They also contended that priority and/or same day fees discriminate against the poor and may confuse consumers, causing them to pay unnecessarily for same day service.

Commission response

The commission acknowledges that as the Priority Move-In charge decreases in accordance with the progressive deployment of advanced meters, Priority Move-In requests are likely to increase. The majority of the time, however, the TDUs will be able to complete these requests remotely. The TDUs estimate that 95% of all service orders are likely to be completed remotely. The commission agrees with the REP Coalition that the Joint TDUs'

proposal to amend the tariff to include a new provision that would allow a TDU to propose a new and separate Priority Move-In charge runs counter to the settlement agreements and commission final orders for the TDUs' AMS deployment plans, which reduce discretionary service charges over specified periods of time to reflect the progressive reduction in costs resulting from AMS deployment. The commission disagrees with the Joint TDUs that apart from a new charge applicable to a request for a Priority Move-In, there is no opportunity to recover the cost of after-hours field activity. The commission agrees with the REP Coalition that there are other avenues through which a TDU can recover any incremental costs resulting from fulfilling this requirement.

The deployment of AMS is a building block to achieving significant improvements in customer service and lower cost. The commission does not agree with Texas ROSE/TLSC that the TDUs should be required to meet the timeline for a provisioned advanced meter with remote disconnect/reconnect capabilities when a meter is not communicating remotely. If timelines are too restrictive, the TDUs' operation and maintenance costs are likely to increase and raise the cost of providing AMS service to customers.

Rather than eliminate the Priority Move-In fee as Texas ROSE/TLSC suggests, discretionary fees will be reduced over time pursuant to the settlement agreements and commission final orders for the TDUs' AMS deployment plans. The commission does not agree with Texas ROSE/TLSC that Priority Move-In service discriminates against the poor. It is an optional service for customers that want extra insurance that, regardless of

the circumstances, their service request will be completed that day provided the request is received by the specified deadline.

Move-Out

The TDUs and REP Coalition stated that proposed language under the “Premises with a Provisioned Advanced Meter with Remote Disconnect/Reconnect Capabilities” heading makes reference to “Standard move-out requests.” They stated that since there is just one class of move-outs but different requirements for premises with a provisioned advanced meter with remote disconnect/reconnect capabilities, and those without such a meter, that the word “standard” is confusing and should be removed. In addition, they noted that the proposed 2:00 PM deadline is not followed by “CPT” and requested that it be added.

Commission response

The commission agrees with the TDUs and REP Coalition and replaces “Standard move-out requests” with “Move-out requests” to reflect the fact that there is only one class of service for a move-out. The commission also adds CPT after the 2:00 PM deadline to denote the use of Central Prevailing Time.

Disconnect for Non-Pay (DNP)

The Joint TDUs recommended that the last two paragraphs be moved to the end of the section to clarify that they are applicable to all disconnections, regardless of the type of meter.

Commission response

In order to make it clear that the last two paragraphs apply equally to all disconnections, the commission agrees with the Joint TDUs and relocates the paragraphs to the end of the section.

Reconnect After DNP

The TDUs and REP Coalition noted that a proposed 2:00 PM deadline is not followed by the “CPT” designation and requested that it be added.

The Joint TDUs recommended that the headings “Standard Reconnect” and “Same Day Reconnect” be removed as well as references to those terms in the portion of the proposed rule that refers to a reconnect for a customer with a provisioned advanced meter. They reasoned that all requests applicable to reconnection of a provisioned advanced meter are of the same type and that removing these distinctions would make the rule less confusing.

The Joint TDUs supported the proposed rule’s timelines regarding reconnection of service after a Disconnect for Non-Pay (DNP) for a customer with a provisioned advanced meter with remote disconnect/reconnect capability. For these customers, service will be reconnected within two hours of the receipt of the request regardless of when it is received. Customers using prepaid service will be reconnected within one hour. This service will be available 24/7, 365 days a year. Texas ROSE/TLSC stated that having to wait less time to be reconnected is clearly beneficial. They warned, however, that the shortened reconnection timeline will only benefit the consumer to the extent that the REP expedites the processing of reconnection transactions to the TDU. To

assure that residential and low-income customers experience less wait time for reconnection of service, they requested that §25.483 be amended to require a REP to submit reconnection requests consistent with the timelines for TDUs. OPUC agreed with Texas ROSE/TLSC's request. In addition, the REP Coalition acknowledged that the timelines in §25.483 need to be modified if new timelines for reconnections are adopted.

The Joint TDUs also supported the proposed rule's timeline regarding reconnection of service after a DNP for a customer with a provisioned advanced meter that is not communicating remotely. They stressed that this timeline is not the timeline that will be applicable to the customer the vast majority of the time. Based on preliminary statistics, they expect that a provisioned advanced meter will fail to communicate less than five percent of the time. The Joint TDUs stated that they believe the 2:00 PM deadline for receipt of service orders worked that day is reasonable, because it allows sufficient time to process the initial request, retry remote communication capability several times in the event of a communication failure, assess the cause of the trouble, and still have time to send a crew to the field to complete the reconnection before the end of the Field Operational Day. They stated that with a 2:00 PM deadline, it is far more likely that orders can be worked on the day they are received without bringing in extra personnel, paying overtime, or creating an undue safety hazard by exposing technicians to dangerous nighttime reconnections. In addition, the Joint TDUs stated that this timeline was their expectation at the time they negotiated their AMS deployment plans.

The REP Coalition disagreed with the proposed rule's timeline regarding reconnection of service after a DNP for a customer with a provisioned advanced meter that is not communicating

remotely. They stated that a non-communicative smart meter frustrates the promise of smart meter technology and undermines the commission's objective to provide customers reconnection of service within a two hour timeframe. Therefore, they proposed that the commission extend the cut-off deadline to 5:00 PM from the proposed 2:00 PM deadline for receipt of service orders to be worked that day. They stated that increasing the odds for same day reconnection by extending the deadline contributes to fulfilling customer expectations about the advanced meter's capabilities and cost effectiveness, while the proposed 2:00 PM deadline for receipt of service orders worked that day could frustrate a customer's attempt to restore electricity quickly and undermine customers' perception about the value of the smart grid.

The REP Coalition noted that today a customer without a provisioned advanced meter can, for an extra fee, extend the 2:00 PM deadline for same day reconnection of service. The REP Coalition suggested that customers with provisioned advanced meters should have the option to guarantee same day service as well but without an extra fee. They opined that it is unreasonable to ask customers to pay a fee to guarantee a level of service that should be expected as a matter of course from advanced meters. The REP Coalition added that since provisioned advanced meters communicate remotely the vast majority of the time, payment of such a fee could turn out to be an unnecessary expense for customers. In addition they reasoned that extending the deadline to 5:00 PM for same day reconnection of service would motivate the TDUs to achieve the highest possible rates of successful remote communication in order to reduce the need to send personnel out into the field. The REPs suggested that the TDU could recover any additional costs resulting from extending the deadline to 5:00 PM through the utility's base rates if the settlement agreement and final order in its AMS deployment and AMS surcharge docket precludes recovery

of any additional costs through discretionary service charges during the deployment period or at the end of the period. Finally, the REP Coalition asserted that their proposal to give customers a greater assurance of same day reconnection of service without the need to pay a fee is consistent with the commission's policy of expedited reconnection of prepaid service.

The Joint TDUs recommended that the commission reject the REP Coalition's comments that the deadline for receipt of service orders for a provisioned advanced meter that is not communicating should be moved to 5:00 PM rather than the proposed rule's 2:00 PM deadline. They argued that extending the deadline to 5:00 PM would cause serious operational concerns and increase costs for the TDU. In addition, they rejected the REP Coalition's argument that the increased cost of extending the deadline for customers with provisioned advanced meters that are not communicating should not be borne by that customer. They argued that this means the extra cost is borne by all customers. In addition, they argued that one of the benefits of AMS deployment is reduction in staff. Extending the deadline would increase staffing needs and thus costs. Should the commission decide to accept the 5:00 PM deadline, the Joint TDUs requested the ability to charge the REP requesting the reconnection for the additional cost of providing the service.

The Joint TDUs additionally submitted two alternatives. In their first alternative, they agreed to accept a 3:00 PM deadline for receipt of service orders to be worked that day when the TDU is unable to communicate with the provisioned advanced meter. In their second alternative, they offered to extend the deadline for customers receiving prepay service to 5:00 PM with the remainder of customers keeping the 2:00 PM deadline for receipt of service orders worked that day. Finally, the TDUs agreed to a review of the deadline for receipt of a Reconnect after DNP

request when the provisioned advanced meter is not communicating, six months after implementation of TX SET 4.0.

Commission response

The commission agrees with the TDUs and REP Coalition and adds CPT after the 2:00 PM deadline to denote Central Prevailing Time.

The commission agrees with the Joint TDUs that there is only one type of reconnect request for premises with a provisioned advanced meter with remote disconnect/reconnect capability and therefore removes references to standard reconnect and same day reconnect to clarify the tariff. The commission leaves references to standard reconnect and same day reconnect for all other premises to reflect that these two types of service are offered.

The commission agrees with Texas ROSE/TLSC, OPUC, and the REP Coalition that §25.483 will need to be amended to be consistent with reconnection timelines adopted. The commission makes no change to §25.483 at this time because it is outside of the scope of this rulemaking.

Among the many AMS benefits are: faster, more flexible customer service that better accommodates customer needs; and reduced costs because remotely completed service requests reduce the necessity to dispatch field personnel to manually complete requests. As pointed out by the Joint TDUs, after-hours field service for reconnection of service at premises where the provisioned advanced meter is not communicating remotely increases

cost. In addition, the commission appreciates the fact that night-time field work also poses a small, increased safety risk to field personnel. However, the commission agrees with the REPs that extending the deadline for reconnection of service after DNP when an advanced meter fails to communicate remotely will contribute to fulfilling customer expectations about the advanced meters' capabilities and effectiveness.

Therefore, to better balance customer service and customer expectations with keeping a check on costs and safety risks, the commission moves the deadline to 4:00 PM CPT on an AMS Operational Day for reconnection of service after DNP when an advanced meter fails to communicate remotely. This deadline will allow the TDUs to save time and expense by holding needed field personnel rather than calling them back to work after they have departed for the day. It will also allow many service orders to be completed before dark. Section 25.498 allows a REP to disconnect a prepaid service customer with as little as one day's notice. As a result, the need for quick reconnection is greater for prepaid service customers. The commission therefore establishes a deadline for prepaid service customers of 5:00 PM CPT on an AMS Operational Day for receipt of service orders for same day reconnection after DNP when the provisioned advanced meter is not communicating remotely.

The TDUs have made progress increasing their success rate for service orders completed remotely. The commission expects this success rate to continue to increase as AMS deployment progresses. The commission anticipates that as the TDUs continue to monitor their system performance on a universal scale and make needed modifications, the

resulting increased success rate for service requests completed remotely will make it practical at some point to increase benefits to customers and extend the deadline even further for receipt of service orders for same day Reconnect after DNP when the provisioned advanced meter is not communicating remotely.

Out of Cycle Meter Read for the Purpose of a Self-Selected Switch

The Joint TDUs requested that the words “with Remote Disconnect/Reconnect Capabilities” be deleted from a heading in the section, because the Meter Read will be performed remotely on any Provisioned Advanced Meter including those that do not have remote disconnect/reconnect capability.

Commission response

The commission agrees with the Joint TDUs that meter reads are performed remotely for provisioned advanced meters regardless of their remote disconnect/reconnect capability and revises the heading in the section accordingly.

Meter Read for the Purpose of a Standard Switch

The TDUs and REP Coalition noted that since meter reads can be obtained from a provisioned advanced meter more quickly than from other meters, the “Meter Read for the Purpose of a Standard Switch” charge should contain separate deadlines for premises with a provisioned advanced meter and premises without such a meter. In addition, the TDUs and REP Coalition requested that deadlines for premises with a provisioned advanced meter contain a 7:00 PM cut-

off for receipt of standard switch requests involving AMS meters, consistent with other transactions.

Commission response

Since meter reads are recorded daily for provisioned advanced meters, the commission agrees with the TDUs and REP Coalition that there should be separate deadlines for premises with a provisioned advanced meter and all other premises. The commission adopts the proposed deadlines and, in addition, agrees that the cut-off for receipt of standard switch requests for a provisioned advanced meter should be consistent with other transactions. The commission changes the proposed rule accordingly.

Section 25.474

Right of Rescission

TEAM, OPUC, Texas ROSE/TLSC, and Cities opposed language in the proposed rule that would eliminate the right of rescission except where required by the Federal Trade Commission's (FTC) Trade Regulation Rule Concerning a Cooling Off Period for Sales Made at Homes or at Certain Other Locations (16 C.F.R. Part 429). They urged the commission to leave in the three-day right of rescission provision for all forms of enrollment. Cities and OPUC opined that the right of rescission conveys the image of a safeguarded market, which encourages greater consumer participation, while TEAM added that customer satisfaction with the market might diminish if the right of rescission is eliminated. Cities suggested that eliminating the right of rescission could make misleading sales tactics profitable. OPUC, TEAM, and Texas

ROSE/TLSC argued that the right of rescission is compatible with a same day switch; therefore, it is not necessary to remove it.

TEAM explained that under the current rule, if a customer exercises the right of rescission, the original REP is billed for the TDU and wholesale settlement costs for the period the customer is served by the gaining REP. If the right of rescission is removed, the gaining REP would be responsible to bill and collect for the few days they served the customer. TEAM feared that such a bill would be difficult to collect and would expose them to unnecessary risk. TEAM acknowledged that their position is not ideal because with a same day switch and the right of rescission in place, the gaining REP would be required to use the manual MarkeTrak process to return the customer to the original REP. TEAM noted that while this would increase cost, it is not a barrier to leaving the right of rescission in place.

OPUC and Texas ROSE/TLSC noted that aggregated data shows that there were 29,170 cancelled switches in 2010 that resulted from either a customer exercising the right of rescission or to correct a situation where a customer was accidentally switched by the REP. They acknowledged that it is not known what portion of these cancelled switches was the result of a customer exercising the right of rescission. Texas ROSE/TLSC and OPUC noted that, while cancelled switches represent a small percentage of the total number of switches (3.5% in 2010), a large number of customers are affected; therefore, the right of rescission should be retained.

OPUC, Cities, and Texas ROSE/TLSC argued that eliminating the right of rescission could cause occurrences of slamming to increase and require more customers to use the slamming resolution

process. OPUC opined that this is a much more burdensome process than the current practice used in the right of rescission where the customer calls the REP and the REP either cancels the switch or initiates a market process at ERCOT to switch the customer back to the original REP.

The REP Coalition, with the exception of TEAM and TXU Energy, agreed with the commission's proposed rule that removes the right of rescission except where required by FTC rule. TXU took no position on the right of rescission but suggested that if the right of rescission is retained, no change should be made to the first available switch date (FASD) as it currently appears in the rule. The REP Coalition stated that they believe same day switching should be the commission's priority. They explained that keeping the right of rescission and mandating same day switches for customers would cause significant administrative and operational burdens on the REPs. To "undo" a switch when same day switches are standard, the REP would need to use the manual MarkeTrak process to return the customer to the original REP. Under the current rule, some same day switches occur but they are an exception to the norm so it is only under limited circumstances that a REP uses the manual MarkeTrak process to cancel a switch. The REP Coalition stressed that under the current rule, the majority of standard switches occur outside the three business day window in subsection (o)(2) or after the expiration of the three business day right of rescission period pursuant to subsection (j).

The REP Coalition asserted that concerns about slamming do not merit retention of the right of rescission where not required by FTC rule. They claimed that §25.495 is an adequate remedy for slamming that does not require that a customer file a complaint with the commission in order to get relief and be made whole.

Commission response

In this rulemaking, the commission is amending the tariff to facilitate a same day switch. The proposed amendments make it possible for a customer to enjoy the benefits resulting from a same day switch while simultaneously being afforded the protection of the three-day right of rescission. Since the right of rescission is compatible with a same day switch, the commission agrees with TEAM, OPUC, Texas ROSE/TLSC, and Cities that the three-day right of rescission provision should be retained for all forms of enrollment. The FTC's Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations (16 C.F.R. Part 429) requires only that customers be protected with the three-day right of rescission for transactions solicited by the seller "at a place other than the place of business of the seller (e.g., sales at the buyer's residence or at facilities rented on a temporary or short-term basis, such as hotel or motel rooms, convention centers, fairgrounds and restaurants, or sales at the buyer's workplace or in dormitory lounges)." By including all forms of enrollment, the commission safeguards customers in all circumstances. This is particularly important for telephonic enrollment where a customer receives oral disclosures but is not provided the Terms of Service (TOS) or Electricity Facts Label (EFL) prior to entering into the transaction.

When a customer exercises the right of rescission, the original REP is billed for the TDU and wholesale settlement costs for the period the customer is served by the gaining REP. The commission agrees with TEAM that in addition to safeguarding customers, the three-day right of rescission limits the risk to the gaining REP associated with having to bill and

collect for the few days a gaining REP serves a customer before the customer is switched back to the original REP.

The commission agrees with the REP Coalition's assertion that same day switching is a priority. The commission also acknowledges that the manual MarkeTrak process that REPs use to "undo" a switch when a customer exercises the right of rescission is labor intensive and would likely increase administrative and operational burdens on REPs should more customers need to be returned to their original REP using this method. In 2010, 3.5% of all switches were cancelled by either a customer exercising the right of rescission or to correct a situation where a customer was accidentally switched by the REP. Over half of these switches were cancelled using the manual MarkeTrak process. The remainder was cancelled by an automatic method that can be used before a switch has been completed. It is likely that giving the customer the benefit of a same day switch while affording the protection of the three-day right of rescission is likely to increase the number of switches cancelled using the manual MarkeTrak method. However, the commission agrees with TEAM that this increased burden is outweighed by the benefits of the three-day right of rescission that inure to the benefit of customers and REPs who briefly gain but then lose customers.

Right of Rescission, ERCOT Postcard

Texas ROSE/TLSC noted that the ERCOT postcard that announces a switch waves a red flag to customers who may have had their service switched without their authorization. Texas ROSE/TLSC proposed that ERCOT be directed to modify the existing switch notification postcard to include a toll-free telephone number to an automated telephone system that would allow residential customers to rescind a switch through ERCOT. The automated telephone process would make the process of exercising the right of rescission easier for customers and provide a means to determine frequency with which customers exercise that right of rescission.

ERCOT responded that if the commission adopts Texas ROSE/TLSC's recommendation, the commission will need to open a new rulemaking project to amend §25.474 to require ERCOT to establish a toll-free, automated call center. ERCOT added that it would incur significant costs for the center and implementing Texas SET transactions to accommodate the center. ERCOT's estimated startup costs of approximately \$500,000 plus annual operating costs of approximately \$170,000 with an estimated implementation time of six to eight months. ERCOT added that it would incur approximately \$10,000 in cost to modify the postcard to include the toll-free telephone number.

Commission response

The commission notes that the ERCOT postcard was modified in Project Number 36536, Rulemaking to Expedite Customer Switch Timelines. Changes to the ERCOT postcard are outside the scope of the current rulemaking. Therefore, the commission declines to address this issue.

Right of rescission – Early Termination Fees

OPUC expressed concern that without the right of rescission, a customer who reconsiders the decision to switch may incur early termination fees from the new provider. Texas ROSE/TLSC agreed and opined that removing the right of rescission is most serious for customers wishing to enter into fixed price contracts that have early termination fees associated with cancellation. Cities added that in addition to early termination fees, the customer may also face additional charges. OPUC stated that under the current rule, a customer that has invoked the right of rescission can return to the original REP under subsection (j) “without penalty or fee of any kind for a period of three federal business days after the applicant’s receipt of the terms of the service document.” Texas ROSE/TLSC proposed that if the right of rescission is eliminated, a customer should be able to switch providers for 45 days after the switch occurs without a termination fee.

The REP Coalition disagreed with Texas ROSE/TLSC and stated that the right of rescission and early termination fees are not substitutes for each other but are intended to serve different objectives in the retail electric market. They explained that early termination fees are a mechanism to mitigate risk and debt exposure, which are critical business objectives. They added that the early termination fee is consistent with the expectation that the customer will adhere to and honor the term of the contract to which the customer has voluntarily agreed, providing price certainty for the customer and the certainty the REP needs to purchase power to serve the customer for the contract period. The REP Coalition noted that best practices dictate that REPs secure term contracts with wholesale power purchases to cover the contract terms in order to hedge risk. If the customer terminates a contract before the term expires, the REP could

also incur unrecoverable costs for the power it purchased upon enrollment to meet its supply obligations. In addition, the REP Coalition observed that Texas ROSE/TLSC's proposal to waive the early termination fee for 45 days if the right of rescission is removed is not comparable in terms of time to the current three-day right of rescission. Finally, the REP Coalition opined that restricting the early termination fee would negatively impact REPs and incent customers to not pay for electricity.

Commission response

Texas ROSE/TLSC requested that the early termination fee be waived for a period of 45 days after a switch occurs if the right of rescission is removed. However, since the commission leaves the right of rescission in place for all forms of enrollment, this request is moot.

Proposed Subsection (f), (g), and (j); Right of Rescission and Door-to-Door Sales

OPUC stated that the right of rescission is based on the FTC Rule codified at 16 C.F.R. Part 429. Both OPUC and Texas ROSE/TLSC noted that the FTC rule extends protection beyond door-to-door sales to include transactions solicited by the seller "at a place other than the place of business of the seller (e.g., sales at the buyer's residence or at facilities rented on a temporary or short-term basis, such as hotel or motel rooms, convention centers, fairgrounds and restaurants, or sales at the buyers workplace or in dormitory lounges)." OPUC proposed that if the right of rescission is removed for certain enrollment methods, subsection (g), which governs personal solicitations other than door-to-door sales, be incorporated into subsection (f) of the rule.

Texas ROSE/TLSC proposed replacing the clause “marketing at a customer’s residence” in subsection (f)(1) with “sales as that term is defined under federal law,” replacing “marketing” with “sales” and deleting references to the customer’s residence. They also suggested that subsection (g) be modified to remove those sales transactions that federal law provides the consumer the right to rescind.

The REP Coalition, with the exception of TEAM and TXU, agreed with Texas ROSE/TLSC and OPUC that certain clarifications need to be made to ensure that the proposed rule applies to all door-to-door sales as defined by the FTC. The REP Coalition suggested incorporating actual language from the FTC rule and including the title of 16 C.F.R. Part 429, “Rule Concerning a Cooling-Off Period for Sales Made at Homes or at Certain Other Locations,” into subsection (j). The REPs also requested that subsection (j) be modified to clarify that the right of rescission applies only to residential customers. They noted that the FTC’s rule on door-to-door sales governs the sale of “consumer goods or services.” In addition, they proposed that subsection (g) be modified to include the three-day right of rescission as required by 16 C.F.R. Part 429.

Commission response

The commission agrees with OPUC, Texas ROSE/TLSC, and the REP Coalition that the FTC rule, 16 C.F.R. Part 429, applies the three-day right of rescission to door-to-door sales, and those transactions where the seller (i.e., the REP or aggregator) personally solicits the customer at a place other than the seller’s place of business. Accordingly, the commission modifies subsection (g) of the rule, which applies to “Personal solicitations other than door-to-door marketing,” to add a new sentence including language similar to that appearing in

the FTC rule, which clarifies that the FTC rule’s three-day right of rescission extends to transactions occurring at a place other than the REP or aggregator’s place of business. This modification will have the same effect as the modifications proposed by the parties. The commission also agrees with the REP Coalition that the rule should reference the proper title of the FTC rule, “Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations,” and modifies subsections (f) and (g) accordingly. Furthermore, subsection (j) is modified to retain the three-day right of rescission for all forms of enrollment and all types of customers. Although 16 C.F.R. Part 429 is unclear as to which types of customers it applies to, current §25.474 applies to all types of customers. The commission concludes that the right of rescission is an important protection for both residential and non-residential customers, and it therefore retains its applicability under the rule to all types of customers.

Proposed Subsections (d), (e), (h), and (n); Disclosure of Fees, Elimination of Fees

Texas ROSE/TLSC proposed that the commission adopt their recommendation to prohibit REPs from charging REP fees for disconnect, reconnect, meter reading, move-in, move-out, and any other discretionary services provided by the TDU’s AMS under the standard discretionary services tariff. Texas ROSE/TLSC also opined that REPs should be prohibited from assessing fees related to a customer’s access to usage data and other AMS-related information provided through the web portal by amending subsection (n). In response to the commission’s initial proposal to amend the rule to remove the right of rescission for some forms of enrollment, Texas ROSE/TLSC opined that the right of rescission protects customers by providing them additional time to go over the various fees and terms of service. Therefore, as an alternative to elimination

of REP fees, in order to protect customers who might not be covered by the protection the right of rescission affords, Texas ROSE/TLSC requested that the proposed rule be amended to incorporate the fees and charges into the authorization disclosure that the REP offers applicants. Texas ROSE/TLSC suggested that subsections (d)(5) and (e)(5) as well as the corresponding change to the letter of authorization, subsections (e)(7) and (h)(4), be amended to add a list of the charges and fees the REP includes as part of its product offering.

The REP Coalition recommended that the commission reject Texas ROSE/TLSC's recommendation on elimination of fees consistent with PURA §39.001(c) and the rationale relied on by the commission in rejecting restrictions on REP fees in Project Number 38675, Amendments to Customer Protection Rules Relating to Prepaid Service. These fees are established by the normal forces of competition and not by regulatory forces. In addition, the REP Coalition also recommended that the commission reject Texas ROSE/TLSC's recommendation on fee disclosure on the grounds that they duplicate information disclosures required by §25.475(f)(2) and (g)(3) for contract documents.

Commission response

The commission believes, as addressed in Rulemaking Project Number 38675, that one of the objectives of introducing retail competition was to spur innovation. Allowing REPs broad discretion in product design, which includes REP fees provided they conform to statute, is consistent with this objective. The commission therefore declines to prohibit REPs from charging fees for disconnect, reconnect, meter reading, move-in, move-out, and other discretionary services provided by the TDU's AMS under the standard discretionary

services tariff. In response to the commission's initial proposal to amend the rule to remove the right of rescission for some forms of enrollment, Texas ROSE/TLSC suggested that the commission add disclosure requirements for REP fees to subsections (d), (e), and (h) to compensate for the loss of customer protection. However, as previously mentioned, the commission amends their initial proposal to include rule language that allows a customer to simultaneously benefit from a same day switch and the right of rescission for all forms of enrollment. In addition, the commission agrees with the REP Coalition that adding fee disclosures to subsections (d), (e), and (h) duplicates disclosures required by §25.475(f)(2) and (g)(3) for contract documents. Therefore, the commission makes no changes to disclosure requirements for REP fees.

Proposed Subsection (h)(4)(H)

OPUC stated that the rule as it exists today protects all customers from slamming, protects those who were coerced into switching, and provides protection to customers that were unable to review contract documents prior to authorizing the switch, as in the case of telephonic enrollment. OPUC requested that if the commission eliminates the right of rescission in some cases, customers that were switched through a telephonic enrollment continue to have the three-day right of rescission. OPUC stated that telephonic enrollment is unlike other forms of enrollment resulting from online sales or direct mail advertisements whereby the customer can review the terms of service and other relevant documents before enrollment.

Commission response

As discussed previously, the commission has decided to retain the right of rescission for all forms of enrollment.

Subsection (d); Accessibility of REP Websites

Texas ROSE/TLSC and OPUC urged the commission to amend subsection (d) to require REP websites to be accessible to people with disabilities. Texas ROSE/TLSC claimed that some, if not all, REPs have failed to make their websites understandable to customers with disabilities and suggested REPs should meet the accessibility standards developed by the World Wide Web Consortium or higher.

The REP Coalition argued that Texas ROSE/TLSC's recommendations should not be adopted. They offered several reasons. First, the World Wide Web Consortium's guidelines are voluntary and dynamic. Second, §25.475 already requires REP websites to be accessible. Third, if a customer has difficulty with a REP website, REPs can utilize the telephone or regular mail, for example, to convey necessary information. Finally, the REP Coalition asserted that the commission should allow REPs to competitively differentiate themselves through their websites rather than impose guidelines that are voluntary for all other commercial users of the internet.

Commission response

The issue of accessibility of REP websites was not addressed in the original proposed rule. Substantive Rule 25.475, which requires that websites be clear, not misleading, fraudulent,

unfair, or anticompetitive, was not opened in this rulemaking. The commission declines to address this issue.

Record Retention

Texas ROSE/TLSC stated that the current rule requires REPs and aggregators to maintain records of each applicant's authorization and verification of enrollment for 24 months. They requested that the rule be amended to require records be kept for 48 months to match the statute of limitations for suits on contract and to correspond with REP and aggregator obligations to maintain certain records relating to their sales for 48 months.

Commission response

Record retention was not addressed in the proposed rule and is not an issue related to the proposed rule. The commission therefore declines to address the issue.

Proposed Subsection (o); Use of actual meter read for the purpose of a switch.

The TDUs and Rep Coalition proposed that subsection (o) be deleted in its entirety since it repeats provisions found in §25.214, Tariff for Retail Delivery Service. They state that including this provision twice in the rules makes it more difficult to amend in the future should the need arise.

Commission response

The commission agrees with the TDUs and the REP Coalition that subsection (o) is redundant of provisions found in the Tariff and should be deleted to promote clarity. The commission amends the rule accordingly.

All comments, including any not specifically referenced herein, were fully considered by the commission. In addition to the changes discussed above, the commission makes other changes to the rules to clarify its intent.

These amendments are adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002, (Vernon 2007 and Supp. 2010) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and in particular, §17.004 and §39.101, which direct the commission to implement customer protections for electric customers; §14.001, which gives the commission the general power to regulate and supervise the business of each public utility within its jurisdiction; and §32.101, which requires an electric utility to file its tariff with the commission.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.001, 14.002, 17.004, 32.101, 39.101.

§25.214. Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities.

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

(d) **Pro-forma Retail Delivery Tariff.**

Tariff for Retail Delivery Service.

CHAPTER 1: DEFINITIONS

The following definitions apply to Company's Tariff for Delivery Service, including the service rules and regulations, policies, Rate Schedules and Riders, and to any Service Agreements made pursuant to the Tariff, unless specifically defined otherwise therein.

ACTUAL METER READING. A Meter Reading whereby Company has collected information from the Meter either manually or through a direct reading, through telemetry, or other electronic communications.

AFFILIATED RETAIL ELECTRIC PROVIDER. A retail electric provider that is affiliated with or the successor in interest of an electric utility certificated to serve an area.

ADVANCED METERING SYSTEM (AMS) OPERATIONAL DAY. Any day but Sunday or a Non-Business Day as defined in Section 3.18 NON-BUSINESS DAY DESIGNATIONS.

APPLICABLE LEGAL AUTHORITIES. A Texas or federal law, rule, regulation, or applicable ruling of the Commission or any other regulatory authority having jurisdiction, an

order of a court of competent jurisdiction, or a rule, regulation, applicable ruling, procedure, protocol, guide or guideline the Independent Organization, or any entity authorized by the Independent Organization to perform registration or settlement functions.

BANKING HOLIDAY. Any day on which the bank designated by Company as the repository for payment of funds due to Company under this Tariff is not open for business.

BILLING DEMAND. Demand used for billing purposes as stated in the applicable Rate Schedule or Rider.

BILLING DETERMINANTS. Measured, calculated, or specified values used to determine Company's Delivery Charges that can be transmitted to the CR on an approved TX SET electronic transaction. These values may include, but are not limited to, measurements of kilowatt-hours (kWh), actual monthly Non-Coincident Peak (NCP) Demand, annual NCP Demand, annual 4-CP Demand (coincident peak for four summer months), Billing Demand, Power Factor, fixed charges, number of lamps, Rate Schedules, and rate subclass.

BUSINESS DAY. Any day on which Company's corporate offices are open for business.

CENTRAL PREVAILING TIME, CPT. As established by national time standards, either Central Standard Time or Central Day-Light time.

CODES. Federal, state, or local laws, or other rules or regulations governing electrical installations.

COMMISSION, PUC, or PUCT. The Public Utility Commission of Texas.

COMPANY. The transmission and distribution utility providing Delivery Service pursuant to this Tariff, and its respective officers, agents, employees, successors, and assigns.

COMPANY'S DELIVERY SYSTEM. The portion of the Delivery System that is owned by Company.

COMPETITIVE RETAILER (CR). A Retail Electric Provider, or a Municipally Owned Utility, or an Electric Cooperative that offers customer choice in the restructured competitive electric power market or any other entity authorized to provide Electric Power and Energy in Texas. For purposes of this Tariff, a Municipally Owned Utility or an Electric Cooperative is only considered a Competitive Retailer where it sells retail Electric Power and Energy outside its certified service territory.

CONSTRUCTION SERVICE. Services related to the construction, extension, installation, modification, repair, upgrade, conversion, relocation, or removal of Delivery System facilities, including temporary facilities.

CONSTRUCTION SERVICE CHARGE. Commission authorized charges to recover costs associated with Construction Services.

DELIVERY. The movement of Electric Power and Energy through Company's electric lines and other equipment, including transformers, from the Point of Supply to the Point of Delivery.

DELIVERY CHARGES. Commission authorized rates and charges for the use of Company's Delivery System. Delivery Charges comprise Delivery System Charges and Discretionary Charges.

DELIVERY SERVICE. The service performed by Company pursuant to this Tariff for the Delivery of Electric Power and Energy. Delivery Service comprises Delivery System Services and Discretionary Services.

DELIVERY SERVICE AGREEMENT. The standard, pro-forma document set forth in this Tariff in which Company and Competitive Retailer agree to be bound by the terms and conditions of Company's Tariff.

DELIVERY SYSTEM. The electric lines, and other equipment, including transformers, owned by Company and the Meters, including Non-Company Owned Meters, used in the Delivery of Electric Power and Energy.

DELIVERY SYSTEM CHARGES. Commission authorized charges to recover costs associated with Delivery System Services.

DELIVERY SYSTEM SERVICES. Delivery Services whose costs are attributed to all Retail Customers that receive Delivery Service from Company and charged to Competitive Retailers serving Retail Customers under the Rate Schedules specified in Section 6.1.1, DELIVERY SYSTEM CHARGES. Delivery System Services are all Tariffed Delivery Services provided by Company that are not specifically defined as Discretionary Services.

DEMAND. The rate at which electric energy is used at any instant or averaged over any designated period of time and which is measured in kW or kVA.

DISCRETIONARY CHARGES. Commission authorized charges to recover costs associated with Discretionary Services.

DISCRETIONARY SERVICES. Customer-specific services for which costs are recovered through separately priced Rate Schedules specified in Chapter 6.

ELECTRIC COOPERATIVE. An electric cooperative as defined in PURA §11.003(9).

ELECTRIC POWER AND ENERGY. The kWh, the rate of Delivery of kWh, and ancillary services related to kWh that a Competitive Retailer provides to Retail Customers.

ELECTRIC SERVICE IDENTIFIER or ESI ID. The basic identifier assigned to each Point of Delivery used in the registration system and settlement system managed by ERCOT or another Independent Organization.

ERCOT. The Electric Reliability Council of Texas, Inc.

ESTIMATED METER READING. The process by which Billing Determinants are estimated when an Actual Meter Reading is not obtained.

FACILITY EXTENSION POLICY. The Company policy that covers such activities as extensions of standard facilities, extensions of non-standard facilities, extensions of facilities in excess of facilities normally provided for the requested type of Delivery Service, upgrades of facilities, electric connections for temporary services, and relocation of facilities.

FACILITY EXTENSION AGREEMENT. The Service Agreement pursuant to this Tariff that must be executed by Company and the entity (either a Retail Customer or Retail Electric Provider) requesting certain Construction Services before Company can provide such Construction Services to the requesting entity.

FIELD OPERATIONAL DAY. Any day but Saturday, Sunday or a Non-Business Day as defined in Section 3.18 Non-Business Day Designations.

GOOD UTILITY PRACTICE. This term will have the meaning ascribed thereto in P.U.C. Subst. R. 25.5, Definitions, or its successor.

HOME AREA NETWORK (HAN) PROVISIONED METER: An advanced meter as defined in P.U.C. Subst. R. 25.130, Advanced Metering, that has been deployed by the Company, and for which the HAN communications are optional.

INDEPENDENT ORGANIZATION or IO. The organization authorized to perform the functions prescribed by PURA §39.151.

Kilovolt Amperes or kVA. 1000 Volt-Amperes.

KILOWATT or kW. 1000 Watts.

KILOWATT-HOUR or kWh. 1000 Watt-hours.

LOAD FACTOR. The ratio, usually stated as a percentage, of actual kWh used during a designated time period to the maximum kW of Demand times the number of hours occurring in the designated time period.

METER or BILLING METER. A device, or devices for measuring the amount of Electric Power and Energy delivered to a particular location for Company billing, CR billing and as required by ERCOT. Meters for residential Retail Customers shall be Company owned unless otherwise determined by the Commission. Commercial and industrial Retail Customers required by the Independent Organization to have an IDR Meter may choose a Meter Owner in accordance with P.U.C. Subst. R. 25.311, Competitive Metering Services and other Applicable Legal Authorities.

METER DATA. All data contained within the Meter.

METER OWNER. Entity authorized by the Retail Customer to own the Meter. Entity could be Retail Customer, Competitive Retailer, or other entity designated by the Retail Customer as permitted by Applicable Legal Authorities. If the Retail Customer is not eligible for competitive metering or does not choose to participate in competitive metering the Meter Owner shall be Company.

METER READING. The process whereby Company collects the information recorded by Meter. Such reading may be obtained manually, through telemetry or other electronic communications, or by estimation, calculation or conversion in accordance with the procedures and practices authorized under this Tariff.

METER READING SCHEDULE. No later than December 15 of each calendar year, Company shall post its schedule for reading each meter on its website so that Competitive Retailers and Retail Customers may access it. Company shall notify Competitive Retailer of any changes to this schedule 60 days prior to the proposed change. Company is responsible for reading the Meter within two Business Days of the date posted in this schedule.

METERING EQUIPMENT. Required auxiliary equipment that is owned by Company and used with the billing meter to accurately measure the amount of Electric Power and Energy delivered. Metering equipment under this definition does not include communication, storage, and equipment necessary for customer access to data.

MUNICIPALLY OWNED UTILITY. A utility owned, operated, and controlled by a municipality or by a nonprofit corporation, the directors of which are appointed by one or more municipalities, as defined in PURA §11.003(11).

NON-COMPANY OWNED METER. A Meter on the ERCOT-approved competitive Meter list that is owned by an entity other than the Company. Unless otherwise expressly provided herein, a Non-Company Owned Meter shall be treated under this Tariff as if it were a Meter owned by the Company.

POINT OF DELIVERY. The point at which Electric Power and Energy leaves the Delivery System.

POINT OF SUPPLY. The point at which Electric Power and Energy enters the Delivery System.

POWER FACTOR. The ratio of real power, measured in kW, to apparent power, measured in kVA, for any given load and time, generally expressed as a percentage.

PREMISES. A tract of land or real estate or related commonly used tracts, including buildings and other appurtenances thereon.

PROVIDER OF LAST RESORT (POLR). A REP certified in Texas that has been designated by the Commission to provide a basic, standard retail service package to requesting or default customers.

PROVISIONED ADVANCED METER. See definition of **SETTLEMENT PROVISIONED METER.**

PURA. Public Utility Regulatory Act, Texas Utilities Code Annotated.

RATE SCHEDULE. A statement of the method of determining charges for Delivery Service, including the conditions under which such charges and method apply. As used in this Tariff, the term Rate Schedule includes all applicable Riders.

REGISTRATION AGENT. Entity designated by the Commission to administer settlement and Premises data and other processes concerning a Retail Customer's choice of Competitive Retailer in the competitive retail electric market in Texas.

RETAIL CUSTOMER. An end-use customer who purchases Electric Power and Energy and ultimately consumes it. Whenever used in the context of Construction Services, the term Retail Customer also includes property owners, builders, developers, contractors, governmental entities, or any other organization, entity, or individual that is not a Competitive Retailer making a request for such services to the Company.

RETAIL CUSTOMER'S ELECTRICAL INSTALLATION. All conductors, equipment, or apparatus of any kind on Retail Customer's side of the Point of Delivery, except the Meter and Metering Equipment, used by or on behalf of Retail Customer in taking and consuming Electric Power and Energy delivered by Company.

RETAIL CUSTOMER'S ELECTRICAL LOAD. The power and energy required by all motors and other electricity-consuming devices located on Retail Customer's Premises that are operated simultaneously using Electric Power and Energy delivered by Company.

RETAIL ELECTRIC PROVIDER or REP. As defined in PURA §31.002(17), a person, certificated pursuant to PURA §39.352, that sells Electric Power and Energy to Retail Customers.

RETAIL SEASONAL AGRICULTURAL CUSTOMER. A customer whose Demand is subject to significant seasonal variation and that is primarily engaged in producing crops or processing crops subsequent to their harvest to prepare or store them for market or other processing, including, but not limited, to cotton ginning, irrigation, and the drying or storing of rice and grain. To be qualified as an irrigation customer under this definition, the pumping load must be for water that is used to raise agricultural crops.

RIDER. An attachment to a Rate Schedule that defines additional service options, pricing, conditions, and limitations for that class of service.

SCHEDULED METER READ DATE. Date Company is scheduled to read the Meter according to the Meter Reading Schedule.

SERVICE AGREEMENT. Any Commission-approved agreement between Company and a Retail Customer or between Company and a Competitive Retailer, which sets forth certain information, terms, obligations and/or conditions of Delivery Service pursuant to the provisions of this Tariff.

SERVICE CALL. The dispatch of a Company representative to a Delivery Service address or other designated location for investigation of a complete or partial service outage, irregularity, interruption or other service related issue.

SETTLEMENT PROVISIONED METER: An advanced meter as defined in P.U.C. Subst. R. 25.130, Advanced Metering, that has been deployed by the Company, and for which 15-minute interval data is sent to and accepted by ERCOT for settlement purposes. The Settlement Provisioned Meter is also referred to as a *Provisioned Advanced Meter*.

Chapter 2 – Chapter 4.3.2 (No change.)

4.3.2.1 INITIATION OF DELIVERY SYSTEM SERVICE WHERE CONSTRUCTION SERVICES ARE NOT REQUIRED

Where existing Company facilities will be used for Delivery System Service and no Construction Service is needed, Company shall initiate Delivery System Service for Retail Customer if requested by Competitive Retailer through the Registration Agent unless:

- (1) The Retail Customer's Electrical Installation is known to be hazardous under applicable Codes, or is of such character that satisfactory Delivery System Service cannot be provided consistent with Good Utility Practice, or interferes with the service of other Retail Customers, or unless a known dangerous condition exists as long as it exists; or
- (2) The Competitive Retailer is not eligible for Delivery Service under Section 4.3.1, ELIGIBILITY or the Competitive Retailer or Retail Customer is in default under this Tariff. Retail Customer is considered to be in default if Retail Customer fails to satisfy any material obligation under this Tariff after being given notice of the failure and at least ten days to cure.

Company shall provide service and if a charge has been authorized by the Commission, Company may assess a charge for service connection pursuant to Section 6.1, RATE SCHEDULES.

Chapter 4.3.2.2 – 4.3.12 (No change.)

4.3.12.1 MOVE OUT REQUEST

In the event that Retail Customer is vacating the Premises and Competitive Retailer no longer desires to be associated with the Point of Delivery, Competitive Retailer shall notify the Registration Agent of the date Competitive Retailer desires Company to discontinue Delivery Service to a particular Point of Delivery through a move-out transaction and Company shall discontinue Delivery Service to the Point of Delivery in accordance with Section 6.1. Competitive Retailer shall not be responsible for any Delivery Services provided to that Point of Delivery after the move-out is effectuated unless specifically requested by the Competitive Retailer, and applicable to the time the Competitive Retailer was the Competitive Retailer of Record.

***4.3.12.2 DISCONNECTION DUE TO NON-PAYMENT OF
COMPETITIVE RETAILER CHARGES; RECONNECTION
AFTER DISCONNECTION***

Competitive Retailer may request disconnection for non-payment by Retail Customer or reconnection thereafter as authorized by the Commission's customer protection rules and in accordance with Chapter 6 of the tariff. The execution of a disconnection for non-payment does not relieve the Competitive Retailer of responsibility for any Delivery Services provided to that Point of Delivery. Company shall provide service and if a charge has been authorized by the Commission, Company may assess a charge pursuant to Section 6.1, RATE SCHEDULES.

Chapter 4.3.13 – Chapter 5.3.1 (No change,)

***5.3.1.1 INITIATION OF DELIVERY SYSTEM SERVICE WHERE
CONSTRUCTION SERVICES ARE NOT REQUIRED***

Where existing Company facilities will be used for Delivery System Service and no Construction Service is needed, Company shall initiate Delivery System Service for Retail Customer if requested by Competitive Retailer through the Registration Agent unless:

- (1) The Retail Customer's electrical installation is known to be hazardous under applicable Codes, or is of such character that satisfactory Delivery System Service cannot be provided consistent with Good Utility Practice, or interferes with the service of other Retail Customers; or unless a known dangerous condition exists as long as it exists; or
- (2) The Competitive Retailer is not eligible for Delivery Service under Section 4.3.1, ELIGIBILITY or the Competitive Retailer or Retail Customer is in default under this Tariff. Retail Customer is considered to be in default if Retail Customer fails to satisfy any material obligation under this Tariff after being given notice of the failure and at least ten days to cure.

The Retail Customer is responsible for selecting an eligible Competitive Retailer. Company shall direct Retail Customer to the Commission for a list of eligible Competitive Retailers or to other sources of information subject to Commission's Code of Conduct rules, if requested. Company shall provide initiation of Delivery System Service in accordance with Section 6.1.

Chapter 5.3.1.2 – 5.12.2 (No change.)

6.1.2 DISCRETIONARY CHARGES

6.1.2.1 STANDARD DISCRETIONARY SERVICES

i. Charges Billed by Company to Competitive Retailer

The Discretionary Service Charges listed below are charges for which the Company shall bill the Competitive Retailer upon completion of the service. All charges for the services in 6.1.2 are included in the rates herein. No additional charges (such as processing fees, copying fees, etc.) shall apply. Company shall uniformly apply the standard TX SET code that corresponds to each service below on all invoices for such service. The revisions to this section shall become effective on the date for implementation of TX SET version 4.0.

Charge No.	Name and Description	Amount
	<p>Company shall be open for normal business Monday – Friday 8:00 AM – 5:00 PM except on holidays designated in Section 3.18, NON-BUSINESS DAY DESIGNATIONS. Company shall also be available to process and respond to service requests as provided for in this chapter. Company shall be available for emergencies at all times. This shall not preclude Company from staffing at additional times.</p>	
Connection Charges (Move-in)		
	<p>Standard Move-In</p> <p>Premises with a Provisioned Advanced Meter with Remote Disconnect/Reconnect Capabilities</p> <p>A request to energize a Retail Customer’s connection to the Delivery System made by Competitive Retailer on behalf of Retail Customer that include the corresponding TX SET code for standard service shall be completed on the requested date, except as provided below. Requests received after 7 PM CPT or on a day that is not an AMS Operational Day shall be considered received on the next AMS Operational Day. If the requested date is not an AMS Operational Day, the Move-In will be scheduled for the first AMS Operational Day following the requested date.</p> <p>If Company is unable to successfully communicate with a Provisioned Advanced Meter, the request shall be completed no later than the current AMS Operational Day if request is received by 2:00 PM on an AMS Operational Day. Standard move-in requests</p>	

	<p>For all Premises, this service is available only at existing Premises with an existing Meter. It is not available if inspections and permits, or other construction is required.</p> <p>i. Self-Contained Meter (existing)</p> <p>ii. CT/Other Meter (existing)</p>	<p>\$x.xx</p> <p>\$x.xx</p>
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Disconnection Charges		
	<p>Move-Out</p> <p>Premises with a Provisioned Advanced Meter with Remote Disconnect/Reconnect Capabilities The Company shall discontinue Delivery Service to the Point of Delivery on the date requested by Competitive Retailer. A transaction received after 7:00 PM CPT on an AMS Operational Day or on a day that is not an AMS Operational Day will be considered received on the next AMS Operational Day. If the requested date is not an AMS Operational Day, the move-out will be scheduled for the first AMS Operational Day following the requested date.</p> <p>If Company is unable to successfully communicate with the Provisioned Advanced Meter, the request shall be completed no later than the current AMS Operational Day if request is received by 2:00 PM CPT on an AMS Operational Day. Move-out requests received by Company after 2:00 PM CPT on an AMS Operational Day shall be completed that day if possible, but no later than the close of Company's next AMS Operational Day.</p> <p>All Other Premises Company shall discontinue Delivery Service to the Point of Delivery on the requested date provided the Company receives the transaction at least two Business Days prior to the requested date. A transaction received after 5:00 PM CPT on a Business Day, or on a day that is not a Business Day, will be considered received on the next Business Day. If the request is received less than two Business Days prior to the requested date, the Move-Out will be scheduled for the Business Day that is two Business Days after the date the request is received. If the requested date is not a Business Day, the move-out will be scheduled for the first Business Day following the requested date.</p>	<p>Charge applicable to requests to de-energize service on a move-out is included in the move-in charge.</p>
	<p>Customer Requested Clearance Applicable to requests to de-energize/re-energize Company facilities to allow Retail Customer or Retail Customer's contractor to work near Company or on or near Retail Customer's electrical facilities. Requests for Clearance shall be filled on the requested date provided Company receives the request on a Business Day that is not later than three Business Days prior to the requested date. Notices received after 5:00 PM CPT, or on a day that is not a Business Day, will be considered received on the next Business Day. If the requested date is not a Business Day, or if the Company receives the request with less than three Business Days prior notice, or the clearance cannot be safely performed on the requested date, Company will accommodate the request based on mutual agreement with the requesting party at charges as calculated. All charges include the cost for de-energizing and re-energizing facilities.</p> <p>i. With three Business Days notice (residential) ii. With three Business Days notice (non-residential) iii. With less than three Business Days notice</p>	<p>As Calculated* As Calculated* As Calculated*</p>

Disconnect / Reconnect for Non-Pay Charges		
	<p>Disconnect for Non-Pay (DNP) Applicable to requests from Competitive Retailer to de-energize service to Retail Customer due to Retail Customer's failure to pay charges billed by its Competitive Retailer or Company.</p> <p>Premises with a Provisioned Advanced Meter with Remote Disconnect/Reconnect Capabilities A DNP requested by Competitive Retailer shall be completed within two hours of receipt on the requested date provided Company receives the request no later than 2:00 PM CPT on the requested date and provided that the requested date is a Business Day. Requests received after 2:00 PM CPT on the requested date, or on a day that is not a Business Day, will be completed no later than 8:00 AM CPT on the next Business Day.</p> <p>If Company is unable to successfully communicate with a Provisioned Advanced Meter and the DNP request was received by 2:00 PM CPT on a Business Day, the request shall be completed no later than 4:00 PM CPT on the current Business Day if possible, but no later than 4:00 PM CPT the following Business Day. Disconnect requests received by Company after 2:00 PM CPT on a Business Day shall be completed that day if possible but no later than 4:00 pm CPT on Company's next Business Day.</p> <p>All Other Premises The DNP request shall be completed within three Business Days of the requested date, provided Company receives the request at least two Business Days before the requested date. Notices received after 5:00 PM CPT, or on a day that is not a Business Day, will be considered received on the next Business Day.</p> <p><u>At Meter</u></p> <ul style="list-style-type: none"> i. Standard Disconnect ii. Same Day Disconnect <p><u>At Premium Location (i.e., pole, weatherhead, secondary box)</u></p> <ul style="list-style-type: none"> i. Standard Disconnect ii. Same Day Disconnect <p>For all Premises, Company shall not disconnect a Premise before the requested date and shall not disconnect a Premise on the Business Day immediately preceding a holiday. Company shall not complete a DNP request between the hours of 4:00 PM and 7:00 AM CPT.</p> <p>If the DNP is performed by Company due to Retail Customer's non-payment of a charge billed directly by Company to the Retail Customer, or because the Retail Customer has not fulfilled its obligations under a contract entered into between Company and the Retail Customer, these charges shall not be billed to the Competitive Retailer.</p>	<p style="text-align: right;">\$x.xx</p> <p style="text-align: right;">\$x.xx</p> <p style="text-align: right;">\$x.xx</p> <p style="text-align: right;">\$x.xx</p>

	<p>Reconnect After DNP</p> <p>Applicable to requests to re-energize service to Retail Customer after Retail Customer has been disconnected for non-payment.</p> <p>Premises with a Provisioned Advanced Meter with Remote Disconnect/Reconnect Capabilities</p> <p>Requests received by Company shall be reconnected within 2 hours of receipt of request.</p> <p>For Premises where the Competitive Retailer provides prepaid service under P.U.C. SUBST. R. 25.498, reconnect requests shall be reconnected within 1 hour of receipt of request.</p> <p>If Company is unable to successfully communicate with a Provisioned Advanced Meter, the request shall be completed no later than the current AMS Operational Day if request is received by 4:00 PM CPT on an AMS Operational Day. A reconnect request received by Company after 4:00 PM CPT on an AMS Operational Day shall be performed that day if possible, but no later than the close of Company's next AMS Operational Day. For Premises where the Competitive Retailer provides prepaid service under P.U.C. SUBST. R. 25.498, reconnect requests with the appropriate priority code found in the TX SET transaction received by Company by 5:00 PM CPT on an AMS Operational Day shall be completed no later than the current AMS Operational Day. A reconnect request for a premise where the Competitive Retailer provides prepaid services received by the Company after 5:00 PM CPT on an AMS Operational Day or on a day that is not an AMS Operational Day, shall be performed no later than the close of Company's next AMS Operational Day.</p> <p>NOTE: In no event shall Company fail to reconnect service within 48 hours after a reconnection request is received. However, if this requirement results in the reconnection being performed on a Non-Business Day as defined in Section 3.18 NON-BUSINESS DAY DESIGNATIONS, an additional charge for connection will also apply.</p> <p>All Other Premises</p> <p>Standard reconnect requests received by Company by 2:00 PM CPT on a Business Day shall be performed that day. Standard reconnect requests received by Company after 2:00 PM CPT on a Business Day shall be performed that day if possible, but no later than the close of Company's next Field Operational Day. Standard reconnect requests received by Company after 7:00 PM CPT or on a day that is not a Business Day shall be considered received at 8 am CPT on the next Business Day.</p> <p>NOTE: In no event shall Company fail to reconnect service within 48 hours after a reconnection request is received. However, if this requirement results in the reconnection being performed on a day that is not a Business Day, an additional charge for non-Business Day connection will also apply.</p>	<p>\$x.xx</p>
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	<p>Same Day Reconnect:</p> <p>Premises without a Provisioned Advanced Meter with Remote Disconnect/Reconnect Capabilities Same day reconnect requests received by Company prior to 5:00 PM CPT on a Business Day shall be reconnected no later than the close of Company's Field Operational Day.</p> <p><u>At Meter</u></p> <ul style="list-style-type: none"> i. Standard Reconnect ii. Same Day Reconnect iii. Weekend iv. Holiday <p><u>At Premium Location (i.e., pole, weatherhead, secondary box)</u></p> <ul style="list-style-type: none"> i. Standard Reconnect ii. Same Day Reconnect iii. Weekend iv. Holiday <p>NOTE: In no event shall Company fail to reconnect service within 48 hours after a reconnection request is received. However, if this requirement results in the reconnection being performed on a day that is not a Business Day, an additional charge for non-Business Day connection will also apply.</p>	<p>\$x.xx</p> <p>\$x.xx</p> <p>\$x.xx</p> <p>\$x.xx</p> <p>\$x.xx</p> <p>\$x.xx</p> <p>\$x.xx</p> <p>\$x.xx</p> <p>\$x.xx</p>
Meter Test Charge		
	<p>Applicable to Meter tests performed at the request of Competitive Retailer or Retail Customer in accordance with Section 4.7.4, METER TESTING.</p> <p><u>Self-contained Meter – Company owned</u></p> <ul style="list-style-type: none"> i. First test within the previous four years ii. Found outside of the accuracy standards iii. All other <p><u>CT/Other Meter – Company owned</u></p> <ul style="list-style-type: none"> i. First test within the previous four years ii. Found outside of the accuracy standards iii. All other <p><u>Competitive Meter</u></p>	<p>\$0.00</p> <p>\$0.00</p> <p>\$x.xx</p> <p>\$0.00</p> <p>\$0.00</p> <p>\$x.xx</p> <p>\$x.xx</p>
Out-of-Cycle Meter Read Charges		
	<p>Re-Reads Applicable to requests to re-read Retail Customer's Meter to verify the accuracy of Company's Meter Reading. The re-read shall be completed within five Business Days of Company's receipt of the request.</p> <ul style="list-style-type: none"> i. Meter Reading found to be in error ii. Meter Reading found to be accurate 	<p>\$0.00</p> <p>\$x.xx</p>

	<p>Out-of-Cycle Meter Read for the Purpose of a Self-Selected Switch Applicable to requests to read Retail Customer's Meter on a date other than Company's regularly scheduled monthly Meter Reading date for the purpose of a switch of a Retail Customer's account to a new Competitive Retailer on a date certain.</p> <p>Retail Customer with a Provisioned Advanced Meter Company shall perform the Meter Read on Competitive Retailer's requested date, provided the requested date is an AMS Operational Day and Company receives the request prior to 7:00 PM CPT on the requested date. Notices received after 7:00 PM CPT or on a day that is not an AMS Operational Day will be considered received on the next AMS Operational Day. If the requested date is not an AMS Operational Day, the out-of-cycle Meter Read will be scheduled for the first AMS Operational Day following the requested date.</p> <p>Retail Customer without a Provisioned Advanced Meter Company shall perform the Meter Read on the Competitive Retailer's requested date, provided the Company receives the request on a Business Day that is not later than two Business Days prior to the requested date. Notices received after 5:00 PM CPT, or on a day that is not a Business Day, will be considered received on the next Business Day. If the requested date is not a Business Day, the out-of-cycle Meter Read will be scheduled for the first Business Day following the requested date.</p> <p>The meter read shall be performed in accordance with Section 4.3.4, CHANGING OF DESIGNATED COMPETITIVE RETAILER.</p> <p>Meter Read for the Purpose of a Standard Switch Applicable to requests to read Retail Customer's Meter for the purpose of switching Retail Customer's account to a new Competitive Retailer when the customer has not requested switching on a date certain.</p> <p>For Premises with a Provisioned Advanced Meter Company shall use actual or estimated meter readings obtained from its Advanced Metering System to complete a standard switch on the first available switch date (FASD) or on the next AMS Operational Day if the request is received after 7:00 PM CPT or the FASD is not an AMS Operational Day.</p> <p>All Other Premises Company shall complete the switch with an actual reading and complete the standard switch request within (4) Business Days of the FASD. If a cycle read falls within 4 Business Days beginning with the FASD, Company shall complete the switch using the cycle read. In accordance with §25.474(q)(1), an estimated reading may be used if conditions preclude obtaining actual reads.</p> <p>For All Premises The FASD received from the Registration Agent is day zero unless otherwise specified. The Meter Reading shall be performed in</p>	<p>\$x.xx</p> <p>\$x.xx</p> <p>\$0.00</p>
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	accordance with Section 4.3.4, CHANGING OF DESIGNATED COMPETITIVE RETAILER.	
	Out-of-Cycle Meter Estimation for the Purpose of a Switch due to denial of Access by Retail Customer	\$x.xx
	Out-of-Cycle Estimate for the Purpose of a Mass Transition Charges for estimation shall be charged to the exiting Competitive Retailer.	\$x.xx

§25.474. Selection of Retail Electric Provider.

- (a) **Applicability.** This section applies to retail electric providers (REPs) and aggregators seeking to enroll applicants or customers for retail electric service. In addition, where specifically stated, this section applies to transmission and distribution utilities (TDUs) and the registration agent.
- (b) **Purpose.** The provisions of this section establish procedures for enrollment of applicants or customers by a REP and ensure that all applicants and customers in this state are protected from an unauthorized switch from the applicant's or customer's REP of choice or an unauthorized move-in. A contested switch in providers shall be presumed to be unauthorized unless the REP provides proof, in accordance with the requirements of this section, of the applicant's or customer's authorization and verification.
- (c) **Initial REP selection process.**
- (1) In conjunction with the commission's customer education campaign, the commission may issue to customers for whom customer choice will be available an explanation of the REP selection process. The customer education information issued by the commission may include, but is not limited to:
- (A) an explanation of retail electric competition;
 - (B) a list of all REPs certified to provide electric service to the customer;
 - (C) a form that allows the customer to contact or select one or more of the listed REPs from which the customer desires to receive information or to be contacted; and

- (D) information on how a customer may designate whether the customer would like to be placed on the statewide Do Not Call List and indicate the fee for such placement.
- (2) Any affiliated REP assigned to serve a customer that is entitled to receive the price-to-beat rate, pursuant to the Public Utility Regulatory Act (PURA) §39.202(a), shall issue to a customer, either as a bill insert or through a separate mailing, no later than 30 days after the commencement of customer choice:
- (A) A terms of service document that includes an explanation of the price-to-beat rate;
 - (B) Your Rights as a Customer disclosure; and
 - (C) An Electricity Facts Label for the price to beat, which may, at the discretion of the REP, be in a separate document or contained in the terms of service document.
- (3) An electric utility whose successor affiliated REP will continue to serve customers not eligible for the price-to-beat rate, pursuant to PURA §39.102(b), shall issue to the customer a terms of service document on a date prescribed by the commission. Such a document shall contain an explanation of the price the customer will be charged by the affiliated REP.
- (d) **Enrollment via the Internet.** For enrollments of applicants via the Internet, a REP or aggregator shall obtain authorization and verification of the move-in or switch request from the applicant in accordance with this subsection.

- (1) The website (or websites) shall clearly and conspicuously identify the legal name of the aggregator and its registration number to provide aggregation services or REP and its certification number to sell retail electric service, its address, and telephone number.
- (2) The website shall include a means of transfer of information, such as electronic enrollment, renewal, and cancellation information between the applicant or customer and the REP or aggregator that is an encrypted transaction using Secure Socket Layer or similar encryption standard to ensure the privacy of customer information.
- (3) The website shall include an explanation that a move-in or a switch can only be made by the electric service applicant or the applicant's authorized agent.
- (4) The entire enrollment process shall be in plain, easily understood language. The entire enrollment shall be the same language. Nothing in this section is meant to prohibit REPs or aggregators from utilizing multiple enrollment procedures or websites to conduct enrollments in multiple languages.
- (5) **Required authorization disclosures.** Prior to requesting confirmation of the move-in or switch request, a REP or aggregator shall clearly and conspicuously disclose the following information:
 - (A) the name of the new REP;
 - (B) the name of the specific electric service package or plan for which the applicant's assent is attained;
 - (C) the ability of an applicant to select to receive information in English, Spanish, or the language used in the marketing of service to the applicant.

The REP or aggregator shall provide a means of documenting a customer's language preference;

- (D) the price of the product or plan, including the total price stated in cents per kilowatt-hour, for electric service;
- (E) term or length of the term of service;
- (F) the presence or absence of early termination fees or penalties, and applicable amounts;
- (G) any requirement to pay a deposit and the estimated amount of that deposit, or the method in which the deposit will be calculated. An affiliated REP or provider of last resort (POLR) shall also notify the applicant of the right to post a letter of guarantee in lieu of a deposit in accordance with §25.478(i) of this title (relating to Credit Requirements and Deposits);
- (H) any fees to the applicant for switching to the REP pursuant to subsection (n) of this section;
- (I) in the case of a switch request, the applicant's right, pursuant to subsection (j) of this section, to review and rescind the terms of service within three federal business days, after receiving the terms of service, without penalty;
- (J) a statement that the applicant will receive a copy of the terms of service document via email or, upon request, via regular US mail, that will explain all the terms of the agreement and how to exercise the right of rescission, if applicable; and

- (K) if the customer is being enrolled for prepaid service as defined by §25.498(b)(7) of this title (relating to Prepaid Service), that the customer will not receive a bill and may request a summary of usage and payment.
- (6) The applicant shall be required to check a box affirming that the applicant has read and understands the disclosures and terms of service required by paragraph (5) of this subsection.
- (7) The REP or aggregator shall provide access to the complete terms of service document that is being agreed to by the applicant on the website such that the applicant may review the terms of service prior to enrollment. A prompt shall also be provided for the applicant to print or save the terms of service document to which the applicant assents, and shall inform the application of the option to request that a written copy of the terms of service document be sent by regular U.S. mail by contacting the REP.
- (8) The REP or aggregator shall also provide a toll-free telephone number, Internet website address, and e-mail address for contacting the REP or aggregator throughout the duration of the applicant's or customer's agreement. The REP or aggregator shall also provide the appropriate toll-free telephone number that the customer can use to report service outages.
- (9) Applicant authorizations shall adhere to any state and federal guidelines governing the use of electronic signatures.
- (10) **Verification of authorization for Internet enrollment.** Prior to final verification by the applicant of enrollment with the REP or aggregator, the REP or aggregator shall:

- (A) obtain or confirm the applicant's email address, billing name, billing address, service address, and name of any authorized representative;
 - (B) obtain or confirm the applicant's electric service identifier (ESI-ID), if available;
 - (C) affirmatively inquire whether the applicant has decided to establish new service or change from the current REP to the new REP;
 - (D) affirmatively inquire whether the applicant designates the new REP to perform the necessary tasks to complete a switch or move in for the applicant's service with the new REP; and
 - (E) obtain or confirm one of the following account access verification data: last four digits of the social security number, mother's maiden name, city or town of birth, month and day of birth, driver's license or government issued identification number. For non-residential applicants, the REP may obtain the applicant's federal tax identification number.
- (11) After enrollment, the REP or aggregator shall send a confirmation, by email, of the applicant's request to select the REP. The confirmation email shall include:
- (A) in the case of a switch, a clear and conspicuous notice of the applicant's right, pursuant to subsection (j) of this section, to review and rescind the terms of service within three federal business days, after receiving the terms of service without penalty and offer the applicant the option of exercising this right by toll-free number, email, Internet website, facsimile transmission or regular mail. This notice shall be accessible to the

applicant without need to open an attachment or link to any other document; and

(B) the terms of service and Your Rights as a Customer documents. These may be documents attached to the confirmation email, or the REP or aggregator may include a link to an Internet webpage containing the documents.

(e) **Written enrollment.** For enrollments of customers via a written letter of authorization (LOA), a REP or aggregator shall obtain authorization and verification of the switch or move-in request from the applicant in accordance with this subsection.

(1) All LOAs for move-in or switch orders shall be in plain, easily understood language. The entire enrollment shall be in the same language.

(2) The LOA shall be a separate or easily separable document containing the requirements prescribed by this subsection for the sole purpose of authorizing the REP to initiate a switch request. The LOA is not valid unless it is signed and dated by the customer requesting the move-in or switch.

(3) The LOA may contain a description of inducements associated with enrolling with the REP; however, the actual inducement itself shall not be either included on or as part of the LOA, or constitute the LOA by itself.

(4) The LOA shall be legible and shall contain clear and unambiguous language;

(5) **Required authorization disclosures.** The LOA shall disclose the following information:

(A) the name of the new REP;

- (B) the name of the specific electric service package or plan for which the applicant's assent is attained;
- (C) the ability of an applicant to select to receive information in English, Spanish, or the language used in the marketing of service to the applicant. The REP shall provide a means of documenting an applicant's language preference;
- (D) the price of the product or plan, including the total price stated in cents per kilowatt-hour, for electric service;
- (E) term or length of the term of service;
- (F) the presence or absence of early termination fees or penalties, and applicable amounts;
- (G) any requirement to pay a deposit and the estimated amount of that deposit, or the method in which the deposit will be calculated. An affiliated REP or POLR shall also notify the applicant of the right to post a letter of guarantee in lieu of a deposit in accordance with §25.478(i) of this title;
- (H) any fees to the applicant for switching to the REP pursuant to subsection (n) of this section;
- (I) in the case of a switch, the applicant's right, pursuant to subsection (j) of this section, to review and rescind the terms of service within three federal business days, after receiving the terms of service, without penalty;
- (J) a statement that the applicant will receive a written copy of the terms of service document that will explain all the terms of the agreement and how to exercise the right of rescission, if applicable; and

- (K) if the customer is being enrolled for prepaid service as defined by §25.498(b)(7) of this title, that the customer will not receive a bill and may request a summary of usage and payment.
- (6) **Verification of authorization of written enrollment.** A REP or aggregator shall, as part of the LOA:
- (A) obtain or confirm the applicant's billing name, billing address, and service address;
 - (B) obtain or confirm the applicant's ESI-ID, if available;
 - (C) affirmatively inquire whether the applicant has decided to establish new service or change from their current REP to the new REP;
 - (D) affirmatively inquire whether the applicant designates the new REP to perform the necessary tasks to complete a switch or move in for the applicant's service with the new REP; and
 - (E) obtain one of the following account access verification data: last four digits of the social security number, mother's maiden name, city or town of birth, month and day of birth, driver's license or government issued identification number. For non-residential applicants, the REP may obtain the applicant's federal tax identification number.
- (7) The following LOA form meets the requirements of this subsection if modified as appropriate for the requirements of paragraph (5)(G) of this subsection. Other versions may be used, but shall contain all the information and disclosures required by this subsection.

LETTER OF AUTHORIZATION

REP name and license number: _____
Applicant billing name: _____
Applicant billing address: _____
Applicant service address: _____
City, state, zip code: _____
ESI ID, if available: _____

If applicable, name of individual legally authorized to act for customer and relationship to applicant: _____

Telephone number of individual authorized to act for applicant: _____

____By initialing here, I acknowledge that I have read and understand the terms of service for the product for which I am enrolling.

____By initialing here, I acknowledge that I understand that the price I am agreeing to is _____cents per kWh, the term of service that I am agreeing to is _____, that I will be required to pay a deposit in the amount of \$_____in order to enroll, that I prefer to receive information from my REP in English/Spanish (circle one), and that there is a penalty for early cancellation of _____as specified by the terms of service.

____By initialing here and signing below, I am authorizing (name of new REP) to become my new retail electric provider and to act as my agent to perform the necessary tasks to establish my electric service account with (name of new REP). This authorization to establish or switch my provider of electric service extends to the following locations (list each service address):

I have read and understand this Letter of Authorization and the terms of service that describe the service I will be receiving. I am at least eighteen years of age and legally authorized to select or change retail electric providers for the service address(s) listed above.

Signed: _____ Date: _____

You have the right to review and, in the case of a switch request, rescind the terms of service within three federal business days, after receiving the terms of service, without penalty. You will receive a written copy of the terms of service document that will explain all the terms of the agreement and how to exercise the right of rescission before your electric service is switched to the REP.

- (8) Before obtaining a signature from a customer, a REP shall:
- (A) provide to the applicant a reasonable opportunity to read the terms of service, Electricity Facts Label, Prepaid Disclosure Statement (PDS), if applicable, and any written materials accompanying the terms of service document; and
 - (B) answer any questions posed by any applicant about information contained in the documents.
- (9) Upon obtaining the applicant's signature, a REP or aggregator shall immediately provide the applicant a legible copy of the signed LOA, and shall distribute or mail the terms of service document, Electricity Facts Label, PDS, if applicable, and Your Rights as a Customer disclosure. If a written solicitation by a REP contains the terms of service document, any tear-off portion that is submitted by the applicant to the REP to obtain electric service shall allow the applicant to retain the terms of service document.
- (10) The applicant's signature on the LOA shall constitute an authorization of the move-in or switch request if the LOA complies with the provisions of this section and the terms of service comply with the requirements of §25.475(d) of this title (relating to General Retail Electric Provider Requirements and Information Disclosures to Residential and Small Commercial Customers).
- (f) **Enrollment via door-to-door sales.** A REP or aggregator that engages in door-to-door marketing at a customer's residence shall comply with the following requirements:

- (1) **Solicitation requirements.** A REP or aggregator that engages in door-to-door marketing at an applicant's residence shall comply with the following requirements:
- (A) The REP or aggregator shall provide the disclosures required by this section and the three-day right of rescission required by the Federal Trade Commission's Trade Regulation Rule Concerning Cooling Off Period for Sales Made at Homes or at Certain Other Locations (16 C.F.R. Part 429).
 - (B) The individual who represents the REP or aggregator shall wear a clear and conspicuous identification of the REP or aggregator on the front of the individual's outer clothing or on an identification badge worn by the individual. In addition, the individual shall wear an identification badge that includes the individual's name and photograph, the REP or aggregator's certification or registration number, and a toll-free telephone number maintained by the REP or aggregator that the applicant may call to verify the door-to-door representative's identity during specified business hours. The company name displayed shall conform to the name on the REP's certification or aggregator's registration obtained from the commission and the name that appears on all of the REP's or aggregator's contracts and terms of service documents in possession of the individual.
 - (C) The REP or aggregator shall affirmatively state that it is not a representative of the applicant's transmission and distribution utility or any other REP or aggregator. The REP's or aggregator's clothing and sales presentation shall be designed to avoid the impression by a reasonable

person that the individual represents the applicant's transmission and distribution utility or any other REP or aggregator.

- (D) The REP or aggregator shall not represent that an applicant or customer is required to switch service in order to continue to receive power.
 - (E) Door-to-door representatives shall adhere to all local city/subdivision guidelines concerning door-to-door solicitation.
- (2) **Required authorization disclosures.** Prior to requesting verification of the applicant's authorization to enroll, a REP or aggregator shall comply with all of the authorization disclosure requirements in either subsections (e)(5) or (h)(1) - (4) of this section.
- (3) **Verification of authorization for door-to-door enrollment.** A REP, or an independent third party retained by the REP, shall telephonically obtain and record all required verification information from the applicant to verify the applicant's decision to enroll with the REP in accordance with this paragraph.
- (A) Electronically record on audiotape, a wave sound file, or other recording device the entirety of an applicant's verification. The verification call shall comply with the requirements in subsection (h)(5) of this section.
 - (B) Inform the applicant that the verification of authorization call is being recorded.
 - (C) Verification shall be conducted in the same language as that used in the sales transaction and authorization.
 - (D) Automated systems shall provide the applicant with the option of exiting the system and nullifying the enrollment at any time during the call.

- (E) A REP or its sales representative initiating a three-way call or a call through an automated verification system shall not participate in the verification process.
 - (F) The REP shall not submit a move-in or switch request until it has obtained a recorded telephonic verification of the enrollment.
- (g) **Personal solicitations other than door-to-door marketing.** A REP or aggregator that engages in personal solicitation at a location other than a customer's residence (such as malls, fairs, or places of business) shall comply with all requirements for written enrollments and LOA requirements detailed in subsection (e) of this section. In addition, the REP or aggregator shall comply with the following additional requirements:
- (1) For transactions occurring at a place other than the REP or aggregator's place of business, the REP or aggregator shall provide the three-day right of rescission required by the Federal Trade Commission's Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations (16 C.F.R. Part 429).
 - (2) For solicitations of residential customers, the individual who represents the REP or aggregator shall wear a clear and conspicuous identification of the REP or aggregator on the front of the individual's outer clothing or on an identification badge worn by the individual. The company name displayed shall conform to the name on the REP's certification or aggregator's registration obtained from the commission and the name that appears on all of the REP's or aggregator's contracts and terms of service documents in possession of the individual.

- (3) The individual who represents the REP or aggregator shall not state or imply that it is a representative of the customer's transmission and distribution utility or any other REP or aggregator. The REP's or aggregator's clothing and sales presentation shall be designed to avoid the impression by a reasonable person that the individual represents the applicant's transmission and distribution utility or any other REP or aggregator.
 - (4) The REP or aggregator shall not represent that an applicant is required to switch service in order to continue to receive power.
- (h) **Telephonic enrollment.** For enrollments of applicants via telephone solicitation, a REP or aggregator shall obtain authorization and verification of the move-in or switch request from the applicant in accordance with this subsection.
- (1) A REP or aggregator shall electronically record on audio tape, a wave sound file, or other recording device the entirety of an applicant's authorization and verification. Automated systems shall provide the customers with either the option of speaking to a live person at any time during the call, or the option to exit the call and cancel the enrollment.
 - (2) The REP or aggregator shall inform the customer that the authorization and verification portions of the call are being recorded.
 - (3) Authorizations and verifications shall be conducted in the same language as that used in the sales transaction.

- (4) **Required authorization disclosures.** Prior to requesting verification of the move-in or switch request, a REP or aggregator shall clearly and conspicuously disclose the following information:
- (A) the name of the new REP;
 - (B) the name of the specific electric service package or plan for which the applicant's assent is attained;
 - (C) the price of the product or plan, including the total price stated in cents per kilowatt-hour, for electric service;
 - (D) term or length of the term of service;
 - (E) the presence or absence of early termination fees or penalties, and applicable amounts;
 - (F) any requirement to pay a deposit and the estimated amount of that deposit, or the method in which the deposit will be calculated or the method in which the deposit will be calculated. An affiliated REP or POLR shall also notify the applicant of the right to post a letter of guarantee in lieu of a deposit in accordance with §25.478(i) of this title;
 - (G) any fees to the applicant for switching to the REP pursuant to subsection (n) of this section;
 - (H) in the case of a switch, the applicant's right, pursuant to subsection (j) of this section, to review and rescind the terms of service within three federal business days, after receiving the terms of service, without penalty;

- (I) a statement that the applicant will receive a written copy of the terms of service document that will explain all the terms of the agreement and how to exercise the right of rescission, if applicable; and
 - (J) if the customer is being enrolled for prepaid service as defined by §25.498(b)(7) of this title, that the customer will not receive a bill and may request a summary of usage and payment.
- (5) **Verification of authorization of telephonic enrollment.**
- (A) A REP or aggregator shall electronically record on audio tape, a wave sound file, or other recording device the entirety of an applicant's verification of the authorization. The REP or aggregator shall inform the applicant that the verification call is being recorded.
 - (B) Prior to final confirmation by the applicant that they wish to enroll with the REP, the REP shall, at a minimum:
 - (i) obtain or confirm the applicant's billing name, billing address, and service address;
 - (ii) obtain or confirm the applicant's ESI-ID, if available;
 - (iii) for a move-in request, ask the applicant, "do you agree to become a customer with (REP) and allow (REP) to complete the tasks required to start your electric service?" and the applicant must answer affirmatively; or
 - (iv) for a switch request, ask the applicant, "do you agree to become a (REP) customer and allow us to complete the tasks required to

switch your electric service from your current REP to (REP)?" and the applicant must answer affirmatively;

(v) ask the applicant, "do you want to receive information in English, Spanish (or the language used in the marketing of service to the applicant)?" The REP shall provide a means of documenting the applicant's language preference; and

(vi) obtain or confirm one of the following account access verification data: last four digits of the social security number, mother's maiden name, city or town of birth, or month and day of birth, driver's license or government issued identification number. For non-residential applicants, a REP may obtain the applicant's federal tax identification number.

(C) In the event the applicant does not consent to or does not provide any of the information listed in subparagraph (B) of this paragraph, the enrollment shall be deemed invalid and the REP shall not submit a switch or move-in request for the applicant's service.

(D) If a REP has solicited service for prepaid service, an actual pre-payment by a customer may be substituted for a telephonic verification, provided that the pre-payment is not taken at the time of the solicitation by the sales representative that has obtained the authorization from the customer, and the REP has obtained a written LOA from the customer and can produce documentation of the pre-payment. The REP shall not submit a move-in or switch request until it has received the prepayment from the customer.

(i) **Record retention.**

- (1) A REP or aggregator shall maintain non-public records of each applicant's authorization and verification of enrollment for 24 months from the date of the REP's initial enrollment of the applicant and shall provide such records to the applicant, customer, or commission staff, upon request.
- (2) A REP or an aggregator shall submit copies of its sales script, terms of service document, and any other materials used to obtain a customer's authorization or verification to the commission staff upon request. In the event commission staff request documents under this subsection, the requested records must be delivered to the commission staff within 15 days of the written request, unless otherwise agreed to by commission staff.
- (3) In the event an applicant or customer disputes an enrollment or switch, the REP shall provide to the applicant or customer proof of the applicant's or customer's authorization within five business days of the request.

- (j) **Right of rescission.** A REP shall promptly provide the applicant with the terms of service document after the applicant has authorized the REP to provide service to the applicant and the authorization has been verified. For switch requests, the REP shall offer the applicant a right to rescind the terms of service without penalty or fee of any kind for a period of three federal business days after the applicant's receipt of the terms of service document. The provider may assume that any delivery of the terms of service document deposited first class with the United States Postal Service will be received by the applicant within three federal business days. Any REP receiving an untimely notice

of rescission from the applicant shall inform the applicant that the applicant has a right to select another REP and may do so by contacting that REP. The REP shall also inform the applicant that the applicant will be responsible for charges from the REP for service provided until the applicant switches to another REP. The right of rescission is not applicable to an applicant requesting a move-in.

- (k) **Submission of an applicant's switch or move-in request to the registration agent.** A REP shall submit a move-in or switch request to the registration agent so that the move-in or switch will be processed on the approximate scheduled date agreed to by the applicant and as allowed by the tariff of the TDU, municipally owned utility, or electric cooperative. A REP shall submit an applicant's switch request to the registration agent as a standard switch. In the alternative, the REP shall submit an applicant's switch request as a self-selected switch if the applicant requests a specific date for a switch, consistent with the applicable transmission and distribution tariff. A REP may submit an applicant's switch request to the registration agent prior to the expiration of the rescission period prescribed by subsection (j) of this section, provided that if the customer makes a timely request to cancel service the REP shall take action to ensure that the switch is canceled or the customer is promptly returned to its chosen REP without inconvenience or additional cost to the customer. The applicant shall be informed of the approximate scheduled date that the applicant will begin receiving electric service from the REP, and of any delays in meeting that date, if known by the REP.

(l) **Duty of the registration agent.**

- (1) When the registration agent receives a move-in or switch request from a REP, the registration agent shall process that request in accordance with this section and its protocols, to the extent that the protocols are consistent with this section. The registration agent shall send a switch notification notice to the applicant that shall:
- (A) be worded in English and Spanish consistent with §25.473(d) of this title (relating to Non-English Language Requirements);
 - (B) identify the REP that initiated the switch request; and
 - (C) provide the names and telephone numbers for the gaining and losing REP.
- (2) The registration agent shall direct the TDU to implement any switch, move-in, or transfer to the REP or the POLR in accordance with this section and its protocols.

(m) **Exemptions for certain transfers.** The provisions of this section relating to authorization and right of rescission are not applicable when the applicant's or customer's electric service is:

- (1) transferred to the POLR pursuant to §25.43 of this title (relating to Provider of Last Resort (POLR)) when the customer's REP of record defaults or otherwise ceases to provide service. Nothing in this subsection implies that the customer is accepting a contract with the POLR for a specific term;
- (2) transferred to the competitive affiliate of the POLR pursuant to §25.43(o) of this title;

- (3) transferred to another REP in accordance with section §25.493 of this title (relating to Acquisition and Transfer of Customers from One Retail Electric Provider to Another); or
- (4) transferred from one premise to another premise without a change in REP and without a material change in the terms of service.
- (n) **Fees.** A REP, other than a municipally owned utility or an electric cooperative, shall not charge a fee to an applicant to switch to, select, or enroll with the REP unless an applicant without a Provisioned Advanced Meter requests an out-of-cycle meter read for the purpose of a self-selected switch. The registration agent shall not charge a fee to the end-use customer for the switch or enrollment process performed by the registration agent. The TDU shall not charge a fee for a review or adjustment described in subsection (p)(2) of this section. To the extent that the TDU assesses a REP a properly tariffed charge for connection of service, out-of-cycle meter read for self-selected switch requests, service order cancellations, or changes associated with the switchin
- g of service or the establishment of new service, any such fee may be passed on to the applicant or customer by the REP. A TDU shall not assess to a REP or an applicant any costs associated with a switch cancellation, including inadvertent gain fees, that results from the applicant's exercise of the three-day right of rescission. The TDU shall include such costs in the cost recovery mechanism described in subsection (o) of this section.

- (o) **TDU cost recovery.** The TDU may recover the reasonable costs associated with performing meter reads for purposes of a standard switch through one of the following two options at the TDU's discretion:
- (1) TDU costs associated with performing standard meter reads for the purpose of switches, to the extent not reflected in base rates, shall be considered costs incurred in deploying advanced metering functionality and are to be considered in setting a surcharge established under PURA §39.107 (h) and §25.130 of this title (relating to Advanced Metering). The costs shall be included in the annual reports filed pursuant to §25.130(k)(5) of this title as actual costs spent to date in the deployment of Advanced Metering Systems (AMS) and shall be considered in setting, reconciling and or updating the AMS surcharge pursuant to §25.130(k) of this title; or,
 - (2) a TDU shall create a regulatory asset for the expenses associated with performing standard meter reads for the purpose of switches pursuant to this subsection. Upon review of reasonableness and necessity, a reasonable level of amortization of such a regulatory asset, including carrying charges, shall be included as a recoverable cost in the TDU's rates in its next rate case or such other rate recovery proceeding as deemed necessary.
- (p) **Meter reads for the purpose of a standard switch.**
- (1) Beginning December 1, 2009, a TDU shall perform actual, as opposed to estimated, meter reads for at least 80% of meter reads for the purpose of a standard switch in any given month, and at least 95% of meter reads for the

purpose of a standard switch in any calendar year, exclusive of remote meter reads using advanced meters. Until December 1, 2009, a TDU may perform estimated meter reads for standard switch requests only for residential customers, exclusive of customers with meters that have remote read capability. A TDU shall use best efforts to perform as many actual reads as possible for standard switches.

- (2) Notwithstanding §25.214 of this title (relating to Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities), an estimated meter read for the purpose of a standard switch is not subject to adjustment, except as provided in subparagraph (A) or (B) of this paragraph. A customer is obligated to pay a bill based upon an estimated meter read for the purpose of a switch, including any adjustment made pursuant to subparagraph (A) or (B) of this paragraph.
 - (A) The TDU shall adjust the estimated meter read if the losing REP's billed usage is greater than the total kilowatt-hours used by the customer in the TDU monthly meter read cycle during which the estimate was made.
 - (B) Only upon the receipt of a customer dispute of the estimated usage to either the gaining or losing REP, either REP may request the TDU to review the estimate. In reviewing the estimate, the TDU shall promptly calculate the average actual kWh usage per day for the time period from the actual meter reading occurring prior to the estimated reading to the actual meter reading occurring after the estimated reading. The TDU shall determine whether the usage per day for the estimated period prior to the switch is at least 25% greater than, or 25% less than, the average actual

kWh usage per day. If so, the TDU shall promptly adjust the estimated meter read. The TDU may adjust an estimate that does not meet this 25% threshold, on a non-discriminatory basis.

- (C) The TDU shall apply a reasonable methodology in making adjustments pursuant to subparagraphs (A) and (B) of this paragraph and shall make the methodology available to REPs. Consistent with any meter read adjustments, the TDU shall adjust its invoices to the affected REP or REPs.
- (3) A TDU shall file performance reports with the commission as part of the information filed under §25.88 of this title (relating to Retail Market Performance Measure Reporting). These reports shall show by month the number and percentages of actual and estimated meter reads for the purpose of switches, and whether that month's performance was in compliance with paragraph (1) of this subsection.
- (q) **Scheduled switch date.** Once a TDU notifies the REPs of a scheduled switch date, the TDU shall perform an actual or estimated read of the customer's meter for that date.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §25.214, relating to Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities (Tariff For Retail Delivery Service), and §25.474, relating to Selection of Retail Electric Provider are hereby adopted with changes to the text as proposed.

SIGNED AT AUSTIN, TEXAS on the _____ day of _____ 2011.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

ROLANDO PABLOS, COMMISSIONER