

CHAPTER 25. SUBSTANTIVE RULES RELATING TO ELECTRIC SERVICE PROVIDERS.

Subchapter I. TRANSMISSION AND DISTRIBUTION.

DIVISION 2. TRANSMISSION AND DISTRIBUTION APPLICABLE TO ALL ELECTRIC UTILITIES.

§25.223. Unbundling of Energy Service.

- (a) **Purpose.** The purpose of this section is to identify all energy services, and determine which energy services must be provided by tariff and which energy services are currently provided in competition with non-utility suppliers. This section also allows the commission to set forth the terms and conditions for public access to non-proprietary utility information.
- (b) **Application.** This section applies to electric utilities that provide retail electric service in Texas. This section does not apply to municipal utilities.
- (c) **Definitions.** The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:
 - (1) **Accessible utility information** — Information compiled by an affected utility during the normal course of providing electric service. This includes, but is not limited to, information used to prepare electric tariffs, to provide electric service to customers, or to market, sell, or demonstrate any electric or energy-related service or product. Accessible utility information does not include:
 - (A) administrative information necessary for the operation of the affected utility;
 - (B) proprietary customer information;
 - (C) trade secrets; or
 - (D) information that the affected utility demonstrates is competitively sensitive.
 - (2) **Affected utilities** — Refers to all utilities to which this section applies.
 - (3) **Customer service** — As defined in §25.221 of this title (relating to Electric Cost Separation).
 - (4) **Distribution service** — As defined in §25.221 of this title (relating to Electric Cost Separation).
 - (5) **Energy service** — A service provided by an affected utility that is related to the provision of electric service by the affected utility. Energy service may be a component of either customer service or distribution service, or may be a separate, competitively-available service. Energy service includes, but is not limited to:
 - (A) explanation of tariff options and determination of the appropriate rate schedule for a retail customer and related software and services;
 - (B) administration of commission-authorized demand-side resource contracts;
 - (C) administration of commission-authorized low-income programs and activities;
 - (D) sale, financing, installation, operation, warranty, or repair of energy-consuming, customer-premise equipment;
 - (E) the provision of energy efficiency and load management services;
 - (F) the provision of technical assistance relating to any customer-premises process or device that consumes electricity, including energy audits;
 - (G) sale, financing, installation, operation, warranty, or repair of customer-premises power quality and reliability equipment and related diagnostic services;
 - (H) the provision of anything of value to trade groups, builders, developers, financial institutions, architects and engineers, landlords, and other persons involved in making decisions relating to investments in energy-consuming equipment or buildings on behalf of the ultimate retail electricity customer;
 - (I) sale, financing, installation, operation, warranty, or repair of customer-premises power-generation equipment and related services;

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DIVISION 2. TRANSMISSION AND DISTRIBUTION APPLICABLE TO ALL ELECTRIC UTILITIES.

§25.223(c)(5) continued

- (J) the provision of information relating to customer usage other than as required for the rendering of a monthly electric bill, including electrical pulse service;
 - (K) communications services related to any energy service not essential for the retail sale of electricity;
 - (L) home and property security services;
 - (M) non-roadway, outdoor security lighting;
 - (N) building or facility design and related engineering services, or analysis and design of energy-related industrial processes;
 - (O) hedging and risk management services;
 - (P) propane and other energy-based services;
 - (Q) retail marketing, selling, demonstration, and merchant activities;
 - (R) customer education, including school programs and community education activities;
 - (S) advertising, including safety advertising;
 - (T) economic development and community affairs; and
 - (U) other activities identified by the commission.
- (6) **Proprietary customer information** — Any information compiled by an electric utility on a customer in the normal course of providing electric service which makes possible the identification of any individual customer by matching such information with the customer's name, address, account number, type or classification of service, historical electricity usage, expected patterns of use, types of facilities used in providing service, individual contract terms and conditions, price, current charges, billing records, or any other information that the customer has expressly requested not be disclosed. Information that is aggregated, redacted, or organized in such a way as to make it impossible to identify the customer to whom the information relates does not constitute proprietary customer information.
- (d) **Review of energy services.** The commission will review the energy services of affected utilities through the filing procedures set forth in this section.
- (e) **Accessible utility information.** All affected utilities shall make accessible utility information available on the following terms:
- (1) **Public access.** Affected utilities shall file service regulations that allow non-discriminatory public access to accessible utility information. The service regulations shall describe the information, available formats, procedures for obtaining access, and the charges, if any, for accessing this information. The service regulations shall comply with the confidentiality and disclosure protections of this section. Individual customer information shall be eliminated from the data as necessary to comply with this section, and customer information shall be aggregated only to the extent necessary to protect proprietary customer information, except where a customer has waived in writing the protection of proprietary customer information.
 - (2) **Access plan.** Affected utilities shall submit to the commission a plan relating to the creation and maintenance of accessible utility information. The plan shall indicate the utility operating unit responsible for the information, the access required by other operating units, the type of information to be maintained, and the type of information to be created and maintained in the future. The utility shall indicate whether any accessible utility information has been destroyed during the past three years.

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Subchapter I. TRANSMISSION AND DISTRIBUTION.

DIVISION 2. TRANSMISSION AND DISTRIBUTION APPLICABLE TO ALL ELECTRIC UTILITIES.

§25.223(e) continued

- (3) **Historic information.** Information relating to the period prior to the effective date of this section shall include a description of the information and the year to which it relates. Such information shall be made available according to the following schedule:
 - (A) Non-customer-specific load-research data, hourly-load-profile data, appliance- and equipment-saturation surveys, and market surveys shall be made available within 60 days of the effective date of this section. This subparagraph applies to the most recent data of each type.
 - (B) All other accessible utility information shall be made available upon request.
 - (4) **New information.** Accessible utility information collected subsequent to the effective date of this section shall be described in separate service regulations. Internet accessibility is encouraged to provide equal access to the other operating units of the affected utility, to interested persons, and to affiliates of the utility.
 - (5) **Protection of information.** This section does not require a utility to divulge competitively-sensitive information, proprietary customer information, corporate support service information, or trade secrets.
- (f) **Filing.** Affected utilities shall file descriptions of the energy services provided by the utility on forms provided by the commission, their plan for accessible utility information, and any new service regulations relating to accessible utility information. The commission shall review these materials and notify the utility of acceptance within 120 days. Affected utilities shall make a filing for this section according to the following schedule:
- (1) Affected utilities with more than one million meters on the effective date of this rule and any electric utility affiliated with such utilities shall file within 30 days of the effective date of this section.
 - (2) Affected utilities with more than 100,000 meters but fewer than one million meters on the effective date of this rule and any electric utility affiliated with such utilities shall file within 45 days of the effective date of this section.
 - (3) All other affected utilities shall file within 60 days of the effective date of this section.