

**PROJECT NO. 41614**

<b>RULEMAKING REGARDING</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>DISCONNECTION OF ELECTRIC</b>	<b>§</b>	
<b>SERVICE TO MULTIFAMILY</b>	<b>§</b>	<b>OF TEXAS</b>
<b>PROPERTIES</b>	<b>§</b>	

**ORDER ADOPTING AMENDMENTS TO §25.29 AND §25.483  
AS APPROVED AT THE NOVEMBER 15, 2013 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts amendments to §25.29, relating to Disconnection of Service, and §25.483, relating to Disconnection of Service, with changes to the proposed text as published in the August 23, 2013 issue of the *Texas Register* (38 TexReg 5388). The amendments are proposed pursuant to House Bill 1772, of the 83rd Texas Legislature, Regular Session, enacted in 2013. The purpose of the amendments is to update the responsibilities of retail electric providers (REPs) and vertically integrated electric utilities to provide notice when electric power to a non-submetered master metered multifamily property is disconnected for non-payment, and to establish a mechanism by which a municipality may provide the commission with the contact information of the municipality's authorized representative for such notice of service disconnection. These amendments are adopted under Project Number 41614.

The commission received comments on the proposed amendments from the Steering Committee of Cities Served by Oncor (Cities), Southwestern Public Service Company (SPS), and the REP Coalition. The REP Coalition consists of the following: Alliance for Retail Markets (ARM); Reliant Energy Retail Services; the Texas Energy Association of Marketers (TEAM); and TXU Energy Retail Company LLC. The members of ARM participating in this proceeding are: Constellation NewEnergy, Inc.; Direct Energy, LP; Green Mountain Energy Company; and

MidAmerican Energy Company. The members of TEAM participating in this proceeding are: Accent Energy d/b/a IGS Energy, Cirro Energy, Just Energy, Spark Energy, Stream Energy, TriEagle Energy, and TruSmart Energy.

***ISSUES APPLICABLE TO BOTH RULE SECTIONS***

The two rules adopted in this order were written in parallel, with §25.29 applicable to electric utilities and §25.483 applicable to REPs. If a commenter suggested a revision to one rule but not the other, and if the commission accepted the revision, the commission revised the applicable provision in both rules (except for §25.483(o)(2) which does not apply to electric utilities).

***ISSUES APPLICABLE TO INDIVIDUAL RULE SECTIONS***

***§25.29. Disconnection of Service.***

*(1) Electric service disconnection of a non-submetered master metered multifamily property.*

*Revisions to paragraph (3)*

*Updates to municipal representative's contact information*

Rather than an annual notice, Cities proposed an initial notice to be submitted no later than January 1, 2014, with subsequent updates on an as needed basis. SPS proposed that the municipality notify the commission and the utility within ten business days of any change to the municipality's authorized representative or to the representative's contact information.

*Additional contact information*

SPS proposed that the municipal representative's contact information include the contact's mailing address.

*Providing municipal contact information to serving utility*

SPS proposed that the municipality's contact information be provided to the utility serving the multifamily property, in addition to the commission.

*Commission Response*

**The commission retains the annual reporting requirement but will allow a municipality to update its contact information as needed. Due to resource constraints, the commission will collect and post updated contact information annually (see discussion below). The commission agrees that the municipality should include the contact's mailing address and has modified the rule accordingly.**

**The commission understands why the serving utility would also want to know the contact information for the municipality's authorized representative, but it is not clear to the commission that a municipality would necessarily know which utility serves a particular non-submetered master metered multifamily property, or who within the utility should receive the contact information. The commission therefore rejects the SPS proposal that a municipality provide the utility with the contact information for the municipality's authorized representative.**

*Revisions to paragraph (5)*

*Notice in addition to email*

In addition to email, SPS proposed that the utility provide notice of disconnection to the municipality's authorized representative by third-party commercial carrier or certified mail.

*Commission Response*

**The commission agrees with this proposal but makes it optional at the election of the utility.**

**The commission has modified the rule accordingly.**

*§25.483. Disconnection of Service.*

*(o) Electric service disconnection of a non-submetered master metered multifamily property.*

*Location of new requirements*

The REP Coalition questioned the need for a new subsection in §25.483 to codify and implement HB 1772. To minimize confusion, the REP Coalition suggested incorporating the proposed text of new subsection (o) into existing subsection (k) and reformatting accordingly.

*Commission Response*

**The commission considered the REP Coalition's concerns about confusion, but will keep the separate rule subsections. The new subsection follows immediately after other subsections which discuss disconnection and notice requirements. As a result, in the commission's view, the risk of confusion is minimal.**

*Revisions to paragraph (2)**Consistency with other requirements*

The REP Coalition suggested revising §25.483(o)(2) as proposed by replacing “disconnecting” with “authorizing disconnection” to make the new rule consistent with other disclosure requirements in the rule.

*Commission Response*

**The commission agrees with this proposal and has modified the rule accordingly.**

*Revisions to paragraph (3)*

*Additional contact information*

The REP Coalition proposed that a municipality include the title and a direct mailing address for its authorized representative.

*General email address*

The REP Coalition proposed that the email address be for a general mailbox in the event the municipality’s authorized representative changes during the twelve month period the commission’s web-posting is in effect.

*Commission Response*

**The commission agrees that adding the contact’s title will help to identify the appropriate person in the event the actual contact changes. The commission also agrees that a general mailbox is preferred over a specific mailbox for the reasons given by the REP Coalition, but the commission is concerned about potential resource limitations of smaller**

**municipalities in the state, so the rule as adopted is modified to make such a general mailbox optional.**

*Revisions to paragraph (4)*

*Posting of contact information*

The REP Coalition expressed concern that the web-posting schedule, as proposed, will not provide them sufficient time to update their own systems to bring them into compliance by February 1 of each year. They suggested the commission complete its web-posting of the contact information by January 15, and the information so posted remain in effect from February 1 of each year until January 30 of the following year.

***Commission Response***

**The commission agrees with this proposal and has modified the rule accordingly.**

*Revisions to paragraph (5)*

*Notice by U.S. Mail or email*

The REP Coalition proposed that notice of disconnection be provided to a municipality either by U.S. Mail or by email, at the option of the retail electric provider.

***Commission Response***

**The commission retains the email notice requirement. The commission is concerned that U.S. Mail notice alone may not give a property owner sufficient time to notify its tenants of**

**a pending service disconnection. The commission modifies the rule to allow notice by commercial carrier or certified mail, rather than by normal U.S. Mail.**

All comments, including any not specifically referenced herein, were fully considered by the commission.

The amendments are adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2013) (PURA) which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and the amendments to PURA made by House Bill 1772 of the 83rd Legislature, Regular Session that enacted in part new PURA §17.202 and §17.203. The new PURA §17.202 requires a retail electric provider or vertically integrated utility to send a written notice to a municipality before the retail electric provider or vertically integrated utility disconnects electric service to a non-submetered master metered multifamily property for nonpayment if certain conditions apply. The new PURA §17.203 in part requires the commission to develop, by rule, a mechanism by which a municipality may provide the commission with the contact information of the municipality's authorized representative for receiving notice of electric service disconnection to a non-submetered master metered multifamily property for nonpayment.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and the amendments to PURA made by House Bill 1772 83rd Legislature, Regular Session, that enacted in part new PURA §17.202 and §17.203.

**§25.29. Disconnection of Service.**

- (a) **Disconnection policy.** If an electric utility chooses to disconnect a customer, it must follow the procedures below, or modify them in ways that are more generous to the customer in terms of the cause for disconnection, the timing of the disconnection notice, and the period between notice and disconnection. Each electric utility is encouraged to develop specific policies for disconnection that treat its customers with dignity and respect its customers' or members' circumstances and payment history, and to implement those policies in ways that are consistent and non-discriminatory. Disconnection is an option allowed by the commission, not a requirement placed upon the utility by the commission.
- (b) **Disconnection with notice.** Electric utility service may be disconnected after proper notice for any of these reasons:
- (1) failure to pay a bill for electric utility service or make deferred payment arrangements by the date of disconnection;
  - (2) failure to comply with the terms of a deferred payment agreement;
  - (3) violation of the electric utility's rules on using service in a manner which interferes with the service of others or the operation of nonstandard equipment, if a reasonable attempt has been made to notify the customer and the customer is provided with a reasonable opportunity to remedy the situation;
  - (4) failure to pay a deposit as required by §25.24 of this title (relating to Credit Requirements and Deposits); or

(5) failure of the guarantor to pay the amount guaranteed, when the electric utility has a written agreement, signed by the guarantor, that allows for disconnection of the guarantor's service.

(c) **Disconnection without prior notice.** Electric utility service may be disconnected without prior notice for any of the following reasons:

- (1) where a known dangerous condition exists for as long as the condition exists. Where reasonable, given the nature of the hazardous condition, the electric utility shall post a notice of disconnection and the reason for the disconnection at the place of common entry or upon the front door of each affected residential unit as soon as possible after service has been disconnected;
- (2) where service is connected without authority by a person who has not made application for service;
- (3) where service was reconnected without authority after termination for nonpayment; or
- (4) where there has been tampering with the electric utility company's equipment or evidence of theft of service.

(d) **Disconnection prohibited.** Electric utility service may not be disconnected for any of the following reasons:

- (1) delinquency in payment for electric utility service by a previous occupant of the premises;

- (2) failure to pay for merchandise, or charges for non-electric utility service, including but not limited to insurance policies or home security systems, provided by the electric utility;
- (3) failure to pay for a different type or class of electric utility service unless charges for such service were included on that account's bill at the time service was initiated;
- (4) failure to pay charges arising from an underbilling, except theft of service, more than six months prior to the current billing;
- (5) failure to pay disputed charges, except for the required average billing payment, until a determination as to the accuracy of the charges has been made by the electric utility or the commission and the customer has been notified of this determination;
- (6) failure to pay charges arising from an underbilling due to any faulty metering, unless the meter has been tampered with or unless such underbilling charges are due under §25.126 of this title (relating to Adjustments Due to Non-Compliant Meters and Meter Tampering in Areas Where Customer Choice Has Been Introduced); or
- (7) failure to pay an estimated bill other than a bill rendered pursuant to an approved meter-reading plan, unless the electric utility is unable to read the meter due to circumstances beyond its control.

- (e) **Disconnection on holidays or weekends.** Unless a dangerous condition exists or the customer requests disconnection, service shall not be disconnected on holidays or

weekends, or the day immediately preceding a holiday or weekend, unless utility personnel are available on those days to take payments and reconnect service.

(f) **Disconnection due to electric utility abandonment.** No electric utility may abandon a customer or a certified service area without written notice to its customers and all similar neighboring utilities, and approval from the commission.

(g) **Disconnection of ill and disabled.** No electric utility may disconnect service at a permanent, individually metered dwelling unit of a delinquent customer when that customer establishes that disconnection of service will cause some person residing at that residence to become seriously ill or more seriously ill.

(1) Each time a customer seeks to avoid disconnection of service under this subsection, the customer must accomplish all of the following by the stated date of disconnection:

- (A) have the person's attending physician (for purposes of this subsection, the term "physician" shall mean any public health official, including medical doctors, doctors of osteopathy, nurse practitioners, registered nurses, and any other similar public health official) call or contact the electric utility by the stated date of disconnection;
- (B) have the person's attending physician submit a written statement to the electric utility; and
- (C) enter into a deferred payment plan.

- (2) The prohibition against service termination provided by this subsection shall last 63 days from the issuance of the electric utility bill or a shorter period agreed upon by the electric utility and the customer or physician.
- (h) **Disconnection of energy assistance clients.** No electric utility may terminate service to a delinquent residential customer for a billing period in which the electric utility receives a pledge, letter of intent, purchase order, or other notification that the energy assistance provider is forwarding sufficient payment to continue service.
- (i) **Disconnection during extreme weather.** An electric utility cannot disconnect a customer anywhere in its service territory on a day when:
  - (1) the previous day's highest temperature did not exceed 32 degrees Fahrenheit, and the temperature is predicted to remain at or below that level for the next 24 hours, according to the nearest National Weather Service (NWS) reports; or
  - (2) the NWS issues a heat advisory for any county in the electric utility's service territory, or when such advisory has been issued on any one of the preceding two calendar days.
- (j) **Disconnection of master-metered apartments.** When a bill for electric utility services is delinquent for a master-metered apartment complex:
  - (1) The electric utility shall send a notice to the customer as required in subsection (k) of this section. At the time such notice is issued, the electric utility shall also inform the customer that notice of possible disconnection will be provided to the

tenants of the apartment complex in six days if payment is not made before that time.

- (2) At least six days after providing notice to the customer and at least four days before disconnecting, the electric utility shall post a minimum of five notices in conspicuous areas in the corridors or other public places of the apartment complex. Language in the notice shall be in large type and shall read: "Notice to residents of (name and address of apartment complex): Electric utility service to this apartment complex is scheduled for disconnection on (date), because (reason for disconnection)."

(k) **Disconnection notices.** Any disconnection notice issued by an electric utility to a customer must:

- (1) not be issued before the first day after the bill is due, to enable the utility to determine whether the payment was received by the due date. Payment of the delinquent bill at the electric utility's authorized payment agency is considered payment to the electric utility.
- (2) be a separate mailing or hand delivered with a stated date of disconnection with the words "disconnection notice" or similar language prominently displayed.
- (3) have a disconnection date that is not a holiday or weekend day, not less than ten days after the notice is issued.
- (4) be in English and in Spanish.
- (5) include a statement notifying the customer that if they need assistance paying their bill by the due date, or are ill and unable to pay their bill, they may be able to

make some alternate payment arrangement, establish deferred payment plan, or possibly secure payment assistance. The notice shall also advise the customer to contact the electric utility for more information.

(1) **Electric service disconnection of a non-submetered master metered multifamily property.**

(1) In this subsection, “non-submetered master metered multifamily property” means an apartment, a leased or owner-occupied condominium, or one or more buildings containing at least 10 dwellings that receive electric utility service that is master metered but not submetered.

(2) An electric utility in an area where customer choice has not been introduced shall send a written notice of service disconnection to a municipality before disconnecting service to a non-submetered master metered multifamily property for nonpayment if:

(A) the property is located in the municipality; and

(B) the municipality establishes an authorized representative to receive the notice as described by paragraph (3) of this subsection.

(3) No later than January 1st of every year, a municipality wishing to receive notice of disconnection of electric service to a non-submetered master metered multifamily property shall provide the commission with the contact information for the municipality’s authorized representative referenced by paragraph (2) of this subsection by submitting that person’s name, title, direct mailing address, telephone number, and email address in a P.U.C. Project Number to be established annually for that purpose. The email address provided by the

municipality may be for a general mailbox accessible by the authorized representative established for the purpose of receiving such notices.

- (4) After January 1st, but no later than January 15th of every year, the commission shall post on its public website the contact information received from every municipality pursuant to paragraph (3) of this subsection. The contact information posted by the commission shall remain in effect during the subsequent 12-month period of February 1 through January 31 for the purpose of the written notice of disconnection required by paragraph (2) of this subsection.
  - (5) The electric utility shall email the written notice required by this subsection to the municipality's authorized representative not later than the 10th day before the date electric service is scheduled for disconnection. Additional notice may be provided by third-party commercial carrier delivery or certified mail.
  - (6) The customer safeguards provided by this subsection are in addition to safeguards provided by other law or agency rules.
  - (7) This subsection does not prohibit a municipality or the commission from adopting customer safeguards that exceed the safeguards provided by this chapter.
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**§25.483. Disconnection of Service.**

- (a) **Disconnection and reconnection policy.** Only a transmission and distribution utility (TDU), municipally owned utility, or electric cooperative shall perform physical disconnections and reconnections. Unless otherwise stated, it is the responsibility of a retail electric provider (REP) to request such action from the appropriate TDU, municipally owned utility, or electric cooperative in accordance with that entity's relevant tariffs, in accordance with the protocols established by the registration agent, and in compliance with the requirements of this section. If a REP chooses to have a customer's electric service disconnected, it shall comply with the requirements in this section. Nothing in this section requires a REP to request that a customer's service be disconnected.
- (b) **Disconnection authority.**
- (1) Any REP may authorize the disconnection of a medium non-residential or large non-residential customer, as that term is defined in §25.43 of this title (relating to Provider of Last Resort (POLR)).
  - (2) Except as provided in subsection (d) of this section, all REPs shall have the authority to authorize the disconnection of residential and small non-residential customers pursuant to commission rules. Prior to authorizing disconnections for non-payment in accordance with this paragraph, a REP shall:
    - (A) test all necessary electronic transactions related to disconnections and reconnections of service; and

- (B) file an affidavit from an officer of the company, in a project established by the commission for this purpose, affirming that the REP understands and has trained its personnel on the commission's rule requirements related to disconnection and reconnection, and has adequately tested the transactions described in subparagraph (A) of this paragraph.
- (c) **Disconnection with notice.** A REP having disconnection authority under the provisions of subsection (b) of this section, including the POLR, may authorize the disconnection of a customer's electric service after proper notice and not before the first day after the disconnection date in the notice for any of the following reasons:
- (1) failure to pay any outstanding bona fide debt for electric service owed to the REP or to make deferred payment arrangements by the date of disconnection stated on the disconnection notice. Payment of the delinquent bill at the REP's authorized payment agency is considered payment to the REP;
  - (2) failure to comply with the terms of a deferred payment agreement made with the REP;
  - (3) violation of the REP's terms and conditions on using service in a manner that interferes with the service of others or the operation of nonstandard equipment, if a reasonable attempt has been made to notify the customer and the customer is provided with a reasonable opportunity to remedy the situation;
  - (4) failure to pay a deposit as required by §25.478 of this title (relating to Credit Requirements and Deposits); or

- (5) failure of the guarantor to pay the amount guaranteed, when the REP has a written agreement, signed by the guarantor, which allows for disconnection of the guarantor's service.
- (d) **Disconnection without prior notice.** Any REP or TDU may, at any time, authorize disconnection of a customer's electric service without prior notice for any of the following reasons:
- (1) Where a known dangerous condition exists for as long as the condition exists. Where reasonable, given the nature of the hazardous condition, the REP, or its agent, shall post a notice of disconnection and the reason for the disconnection at the place of common entry or upon the front door of each affected residential unit as soon as possible after service has been disconnected;
  - (2) Where service is connected without authority by a person who has not made application for service;
  - (3) Where service is reconnected without authority after disconnection for nonpayment;
  - (4) Where there has been tampering with the equipment of the transmission and distribution utility, municipally owned utility, or electric cooperative; or
  - (5) Where there is evidence of theft of service.
- (e) **Disconnection prohibited.** A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for nonpayment of a customer's electric service for any of the following reasons:

- (1) Delinquency in payment for electric service by a previous occupant of the premises;
- (2) Failure to pay for any charge that is not for electric service regulated by the commission, including competitive energy service, merchandise, or optional services;
- (3) Failure to pay for a different type or class of electric service unless charges for such service were included on that account's bill at the time service was initiated;
- (4) Failure to pay charges resulting from an underbilling, except theft of service, more than six months prior to the current billing;
- (5) Failure to pay disputed charges, except for the amount not under dispute, until a determination as to the accuracy of the charges has been made by the REP or the commission, and the customer has been notified of this determination;
- (6) Failure to pay charges arising from an underbilling due to any faulty metering, unless the meter has been tampered with or unless such underbilling charges are due under §25.126 of this title (relating to Adjustments Due to Non-Compliant Meters and Meter Tampering in Areas Where Customer Choice Has Been Introduced); or
- (7) Failure to pay an estimated bill other than a bill rendered pursuant to an approved meter-reading plan, unless the bill is based on an estimated meter read by the TDU.

(f) **Disconnection on holidays or weekends.**

- (1) A REP having disconnection authority under the provisions of subsection (b) of this section shall not request disconnection of a customer's electric service for nonpayment on a holiday or weekend, or the day immediately preceding a holiday or weekend, unless the REP's personnel are available on those days to take payments, make payment arrangements with the customer, and request reconnection of service.
- (2) Unless a dangerous condition exists or the customer requests disconnection, a TDU shall not disconnect a customer's electric service on a holiday or weekend, or the day immediately preceding a holiday or weekend, unless the personnel of the TDU are available to reconnect service on all of those days.

(g) **Disconnection of Critical Care Residential Customers.** A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for nonpayment of electric service at a permanent, individually metered dwelling unit of a delinquent Critical Care Residential Customer when that customer establishes that disconnection of service will cause some person at that residence to become seriously ill or more seriously ill.

- (1) Each time a Critical Care Residential Customer seeks to avoid disconnection of service under this subsection, the customer shall accomplish all of the following by the stated date of disconnection:
  - (A) Have the person's attending physician (for purposes of this subsection, the "physician" shall mean any public health official, including medical

doctors, doctors of osteopathy, nurse practitioners, registered nurses, and any other similar medical professional) contact the REP to confirm that the customer is a Critical Care Residential Customer;

(B) Have the person's attending physician submit a written statement to the REP confirming that the customer is a Critical Care Residential Customer; and

(C) Enter into a deferred payment plan.

(2) The prohibition against service disconnection of a Critical Care Residential Customer provided by this subsection shall last 63 days from the issuance of the bill for electric service or a shorter period agreed upon by the REP and the customer, emergency (secondary) contact listed on the commission-approved application form, or attending physician. If the Critical Care Residential Customer does not accomplish the requirements of paragraph (1) of this subsection:

(A) The REP shall provide written notice to the Critical Care Residential Customer and the emergency contact listed on the commission-approved application form of its intention to disconnect service not later than 21 days prior to the date that service would be disconnected. Such notice shall be a separate mailing or hand delivered notice with a stated date of disconnection with the words "disconnection notice" or similar language prominently displayed. If the REP has offered and the customer has agreed for the customer and/or emergency contact to receive disconnection notices from the REP by email, a separate email with the

words “disconnection notice” or similar language in the subject line shall be sent in addition to the separate mailing or hand delivered notice. Except as provided in this subsection, the notice shall comply with the requirements of subsections (l) and (m) of this section; and

- (B) Prior to disconnecting a Critical Care Residential Customer, a TDU shall contact the customer and the emergency contact listed on the commission-approved application form. If the TDU does not reach the customer and emergency contact by phone, the TDU shall visit the premises, and, if there is no response, shall leave a door hanger containing the pending disconnection information and information on how to contact the REP and TDU.
- (3) If, in the normal performance of its duties, a TDU obtains information that a customer scheduled for disconnection may qualify for delay of disconnection pursuant to this subsection, and the TDU reasonably believes that the information may be unknown to the REP, the TDU shall delay the disconnection and promptly communicate the information to the REP. The TDU shall disconnect such customer if it subsequently receives a confirmation of the disconnect notice from the REP. Nothing herein should be interpreted as requiring a TDU to assess or to inquire as to the customer’s status before performing a disconnection when not otherwise required.
- (4) If a TDU refuses to disconnect a Critical Care Residential Customer pursuant to this subsection, it shall cease charging all transmission and distribution charges

and surcharges, except securitization-related charges, for that premises to the REP.

- (h) **Disconnection of Chronic Condition Residential Customers.** A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for nonpayment of electric service at a permanent, individually metered dwelling unit of a delinquent customer when that customer has been designated as a Chronic Condition Residential Customer pursuant to §25.497 of this title (relating to Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers), except as provided in this subsection. The REP shall notify the Chronic Condition Residential Customer and the emergency contact listed on the commission-approved application form with a written notice of its intention to disconnect service not later than 21 days prior to the date that service would be disconnected. Such notice shall be a separate mailing or hand delivered notice with a stated date of disconnection with the words “disconnection notice” or similar language prominently displayed. If the REP has offered and the customer has agreed for the customer and/or emergency contact to receive disconnection notices from the REP by email, a separate email with the words “disconnection notice” or similar language in the subject line shall be also be sent in addition to the separate mailing or hand delivered notice. Except as provided in this subsection, the notice shall comply with the requirements of subsections (l) and (m) of this section.

(i) **Disconnection of energy assistance clients.**

- (1) A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for nonpayment of electric service to a delinquent residential customer for a billing period in which the REP receives a pledge, letter of intent, purchase order, or other notification that the energy assistance provider is forwarding sufficient payment to continue service provided that such pledge, letter of intent, purchase order, or other notification is received by the due date stated on the disconnection notice, and the customer, by the due date on the disconnection notice, either pays or makes payment arrangements to pay any outstanding debt not covered by the energy assistance provider.
- (2) If an energy assistance provider has requested monthly usage data pursuant to §25.472(b)(4) of this title (relating to Privacy of Customer Information), the REP shall extend the final due date on the disconnection notice, day for day, from the date the usage data was requested until it is provided.
- (3) A REP shall allow at least 45 days for an energy assistance provider to honor a pledge, letter of intent, purchase order, or other notification before submitting the disconnection request to the TDU.
- (4) A REP may request disconnection of service to a customer if payment from the energy assistance provider's pledge is not received within the time frame agreed to by the REP and the energy assistance provider, or if the customer fails to pay any portion of the outstanding balance not covered by the pledge.

(j) **Disconnection during extreme weather.** A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for nonpayment of electric service for any customer in a county in which an extreme weather emergency occurs. A REP shall offer residential customers a deferred payment plan upon request by the customer that complies with the requirements of §25.480 of this title (relating to Bill Payment and Adjustments) for bills that become due during the weather emergency.

(1) The term “extreme weather emergency” shall mean a day when:

(A) the previous day’s highest temperature did not exceed 32 degrees Fahrenheit, and the temperature is predicted to remain at or below that level for the next 24 hours anywhere in the county, according to the nearest National Weather Service (NWS) reports; or

(B) the NWS issues a heat advisory for a county, or when such advisory has been issued on any one of the preceding two calendar days in a county.

(2) A TDU shall notify the commission of an extreme weather emergency in a method prescribed by the commission, on each day that the TDU has determined that an extreme weather emergency has been issued for a county in its service area. The initial notice shall include the county in which the extreme weather emergency occurred and the name and telephone number of the utility contact person.

(k) **Disconnection of master-metered apartments.** When a bill for electric service is delinquent for a master-metered apartment complex:

- (1) The REP having disconnection authority under the provisions of subsection (b) of this section shall send a notice to the customer as required by this subsection. At the time such notice is issued, the REP, or its agents, shall also inform the customer that notice of possible disconnection will be provided to the tenants of the apartment complex in six days if payment is not made before that time.
  - (2) At least six days after providing notice to the customer and at least four days before disconnecting, the REP shall post a minimum of five notices in English and Spanish in conspicuous areas in the corridors or other public places of the apartment complex. Language in the notice shall be in large type and shall read: “Notice to residents of (name and address of apartment complex): Electric service to this apartment complex is scheduled for disconnection on (date), because (reason for disconnection).”
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- (1) **Disconnection notices.** A disconnection notice for nonpayment shall:
    - (1) not be issued before the first day after the bill is due;
    - (2) be a separate mailing or hand delivered notice with a stated date of disconnection with the words “disconnection notice” or similar language prominently displayed or, if the REP has offered and the customer has agreed to receive disconnection notices from the REP by email, be a separate email with the words “disconnection notice” or similar language in the subject line. The REP may send the disconnection notice concurrently with the request for a deposit;

- (3) have a disconnection date that is not a holiday, weekend day, or day that the REP's personnel are not available to take payments, and is not less than ten days after the notice is issued; and
  - (4) include a statement notifying the customer that if the customer needs assistance paying the bill by the due date, or is ill and unable to pay the bill, the customer may be able to make some alternate payment arrangement, establish a deferred payment plan, or possibly secure payment assistance. The notice shall also advise the customer to contact the provider for more information.
- (m) **Contents of disconnection notice.** Any disconnection notice shall include the following information:
- (1) The reason for disconnection;
  - (2) The actions, if any, that the customer may take to avoid disconnection of service;
  - (3) The amount of all fees or charges which will be assessed against the customer as a result of the default;
  - (4) The amount overdue;
  - (5) A toll-free telephone number that the customer can use to contact the REP to discuss the notice of disconnection or to file a complaint with the REP, and the following statement: "If you are not satisfied with our response to your inquiry or complaint, you may file a complaint by calling or writing the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas, 78711-3326; Telephone: (512) 936-7120 or toll-free in Texas at (888) 782-8477. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission at

(512) 936-7136. Complaints may also be filed electronically at [www.puc.texas.gov/ocp/complaints/complain.cfm](http://www.puc.texas.gov/ocp/complaints/complain.cfm);

- (6) If a deposit is being held by the REP on behalf of the customer, a statement that the deposit will be applied against the final bill (if applicable) and the remaining deposit will be either returned to the customer or transferred to the new REP, at the customer's designation and with the consent of both REPs;
  - (7) The availability of deferred payment or other billing arrangements, from the REP, and the availability of any state or federal energy assistance programs and information on how to get further information about those programs; and
  - (8) A description of the activities that the REP will use to collect payment, including the use of consumer reporting agencies, debt collection agencies, small claims court, and other remedies allowed by law, if the customer does not pay or make acceptable payment arrangements with the REP.
- (n) **Reconnection of service.** Upon a customer's satisfactory correction of the reasons for disconnection, the REP shall request the TDU, municipally owned utility, or electric cooperative to reconnect the customer's electric service as quickly as possible. The REP shall inform the customer when reconnection is expected to occur in accordance with the timelines set forth in this subsection and in §25.214 of this title (relating to Terms and Conditions of Retail Delivery Service Provided by Investor Owned Transmission and Distribution Utilities). For premises without a provisioned advanced meter with remote disconnect/reconnect capabilities, if a REP submits a standard reconnect request and the TDU completes the reconnect the same day, the TDU shall assess a standard reconnect

fee. A TDU may assess a same-day reconnect fee only when the REP expressly requests a same-day reconnect and a REP may pass through a same-day reconnect fee to the customer only when the customer expressly requests a same-day reconnect. A REP shall send a reconnection request no later than the timelines in this subsection. The TDU shall complete the reconnection in accordance with the timelines in §25.214 of this title.

- (1) For payments made before 12:00 p.m. on a business day, a REP shall send a reconnection request to the TDU no later than 2:00 p.m. on the same day.
  - (2) For payments made after 12:00 p.m. but before 5:00 p.m. on a business day, a REP shall send a reconnection request to the TDU by 7:00 p.m. on the same day.
  - (3) For payments made after 5:00 p.m. but before 7:00 p.m. on a business day, a REP shall send a reconnection request to the TDU by 9:00 p.m. on the same day.
  - (4) For payments made after 7:00 p.m. on a business day, a REP shall send a reconnection request to the TDU by 2:00 p.m. on the next business day.
  - (5) For payments made on a weekend day or a holiday, a REP shall send a reconnection request to the TDU by 2:00 p.m. on the first business day after the payment was made.
  - (6) In no event shall a REP fail to send a reconnection notice within 48 hours after the customer's satisfactory correction of the reasons for disconnection as specified in the disconnection notice.
- (o) **Electric service disconnection of a non-submetered master metered multifamily property.**
- (1) In this subsection, "non-submetered master metered multifamily property" means an apartment, a leased or owner-occupied condominium, or one or more buildings

containing at least 10 dwellings that receive electric utility service that is master metered but not submetered.

- (2) A REP shall send a written notice of service disconnection to a municipality before authorizing disconnection of service to a non-submetered master metered multifamily property for nonpayment if:
  - (A) the property is located in the municipality; and
  - (B) the municipality establishes an authorized representative to receive the notice as described by paragraph (3) of this subsection.
- (3) No later than January 1st of every year, a municipality wishing to receive notice of disconnection of electric service to a non-submetered master metered multifamily property shall provide the commission with the contact information for the municipality's authorized representative referenced by paragraph (2) of this subsection by submitting that person's name, title, direct mailing address, telephone number, and email address in a P.U.C. Project Number to be established annually for that purpose. The email address provided by the municipality may be for a general mailbox accessible by the authorized representative established for the purpose of receiving such notices.
- (4) After January 1st, but no later than January 15th of every year, the commission shall post on its public website the contact information received from every municipality pursuant to paragraph (3) of this subsection. The contact information posted by the commission shall remain in effect during the subsequent 12-month period of February 1 through January 31 for the purpose of the written notice of disconnection required by paragraph (2) of this subsection.

- (5) The retail electric provider shall email the written notice required by this subsection to the municipality's authorized representative not later than the 10th day before the date electric service is scheduled for disconnection. Additional notice may be provided by third-party commercial carrier delivery or certified mail.
- (6) The customer safeguards provided by this subchapter are in addition to safeguards provided by other law or agency rules.
- (7) This subsection does not prohibit a municipality or the commission from adopting customer safeguards that exceed the safeguards provided by this chapter.

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 §25.29, relating to Disconnection of Service, and §25.483, relating to Disconnection of Service, are hereby adopted with changes to the text as proposed.

**SIGNED AT AUSTIN, TEXAS the 21<sup>st</sup> day of November 2013.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DONNA L. NELSON, CHAIRMAN**

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**KENNETH W. ANDERSON, JR., COMMISSIONER**

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**BRANDY D. MARTY, COMMISSIONER**