

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.111. Registration of Aggregators.

- (a) **Application.** Any person, municipality, political subdivision, or political subdivision corporation that aggregates the loads of two or more electric service customers for purposes of purchasing electricity services shall register with the Public Utility Commission of Texas (commission) pursuant to this section. A single electricity customer, including a municipality or political subdivision, negotiating service in multiple locations for its own use, does not need to register with the commission.
- (b) **Purpose statement.** The role of an aggregator in the restructured electric market is to be a buyer's agent for customer groups. An entity that joins customers together as a single purchasing unit and negotiates on their behalf for the purchase of electricity service in Texas is considered an aggregator and must register pursuant to this section. In contrast, an entity that sells electricity is a retail electric provider (REP) and is subject to other commission rules. This section sets out conditions for registering and operating as an aggregator, including the condition that the aggregator, a buyer's agent, may not be affiliated with a REP or other seller's agent representing the REP.
- (c) **Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context indicates otherwise:
- (1) **Aggregation** — to join two or more electricity customers into a purchasing unit to negotiate the purchase of electricity by the electricity customer as part of a voluntary association of electricity customers, provided that an electricity customer may not avoid any non-bypassable charges or fees as a result of aggregating its load.
 - (2) **Aggregator** — An entity is an aggregator, as opposed to a consultant, if it conducts any activity that joins two or more customers into a purchasing unit to negotiate the purchase of electricity from retail electric providers (REPs). If an entity conducts activities only in the capacity of advisor to a customer or set of customers, without contact with REPs specific to that customer or customer group, then it is a consultant that does not need to register pursuant to this section. An aggregator that provides aggregation services to Texas electricity customers must meet one of the following definitions:
 - (A) **Class I aggregator** — a person joining two or more customers, other than municipalities and political subdivision corporations, into a single purchasing unit to negotiate the purchase of electricity from REPs.
 - (B) **Class II aggregator** — a person or municipality or other political subdivision that provides aggregation services to municipalities or other political subdivisions in the manner stated below:
 - (i) A person authorized by two or more municipal governing bodies to join the bodies into a single purchasing unit to negotiate the purchase of electricity from REPs or a municipality aggregating under Local Government Code, Chapter 303.
 - (ii) A person or political subdivision corporation authorized by two or more political subdivision governing bodies to join the bodies into a single purchasing unit or multiple purchasing units to negotiate the purchase of electricity from REPs for the facilities of the aggregated political subdivisions or a person or political subdivision aggregating under Local Government Code, Chapter 303.
 - (3) **Person** — an individual, a partnership of two or more persons having a joint or common interest, a mutual or cooperative association, or a corporation, but not including a municipal corporation or an electric cooperative. For purposes of this section, a political subdivision or political subdivision corporation is not a person.

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.111(c) continued

- (4) **Political subdivision** — a county, municipality, hospital district, or any other political subdivision receiving electric service from an entity that has implemented customer choice.
 - (5) **Political subdivision corporation** — an entity consisting of two or more political subdivisions created to act as an agent, or otherwise, to negotiate the purchase of electricity for the use of the respective public facilities in accordance with Local Government Code §303.001.
 - (6) **Proprietary customer information** — any information compiled by an aggregator on a customer in the normal course of aggregating electric service that 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 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.
 - (7) **Revocation** — the cessation of all aggregation business operations in the state of Texas, pursuant to commission order.
 - (8) **Suspension** — the cessation of all aggregation business operations in the state of Texas associated with obtaining new customers, pursuant to commission order.
- (d) **Types of aggregator registrations required.**
- (1) Entities seeking to aggregate electricity customers may not provide aggregation services in the state unless they have registered with the commission. Such registration may be sought after September 1, 2000.
 - (2) There are two types of registration available to aggregators. An entity seeking to aggregate under the terms and conditions set forth in the Public Utility Regulatory Act (PURA) §39.353 shall register as a "Class I aggregator." An entity seeking to aggregate under the terms and conditions set forth in PURA §39.354 or §39.3545, or both, shall register as a "Class II aggregator." The Class II category of registration has four subclasses, A through D. The terms of eligibility and operational requirements for each type of aggregator are specified in paragraphs (3) and (4) of this subsection. The registering party must indicate the Class and subclass, if any, under which it wishes to register. If a person is eligible and wishes to perform aggregation services under more than one class of registration, it shall obtain all applicable registrations.
 - (3) **Registration of Class I aggregators.** A Class I aggregator may join at least two voluntary customers into a single purchasing unit to negotiate the purchase of electricity from REPs. A Class I aggregator shall:
 - (A) be a person and not a REP;
 - (B) not be an affiliate of a REP;
 - (C) not include municipalities, political subdivisions, or political subdivision corporations among the customers of an aggregation;
 - (D) not take title to electricity, and not accept any money associated with payment or prepayment for electric service, as distinguished from aggregation services, unless it does so under contract with a REP, consistent with any rules adopted by the commission relating to customer billing as an independent billing agent for a REP;

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.111(d)(3) continued

- (E) comply with the customer protection rules, disclosure requirements, and marketing guidelines of PURA and this title;
 - (F) comply with any other terms and conditions established by the commission to regulate reliability and integrity of aggregators.
- (4) Registration of Class II aggregators. A Class II aggregator shall not be a REP or an affiliate of a REP and shall register pursuant to at least one of the following sets of eligibility and operational requirements:
- (A) **Class II.A: Person that aggregates municipalities, political subdivisions, or both.** A person registered as a Class II.A aggregator pursuant to this subparagraph may join two or more authorizing municipal governing bodies into a single purchasing unit to negotiate the purchase of electricity from REPs, or it may join two or more authorizing political subdivision governing bodies, including municipal governing bodies, into single or multiple purchasing units to negotiate the purchase of electricity from REPs for the facilities of the aggregated political subdivisions. A person aggregating political subdivisions pursuant to this subparagraph may not take title to electricity. The authorizations shall be written and may specify the buyer's agent role of the aggregator to the extent desired by the political subdivision.
 - (B) **Class II.B: Political subdivision corporation aggregating political subdivisions.** A political subdivision corporation registered as a Class II.B aggregator pursuant to this subparagraph may join two or more authorizing political subdivision governing bodies, including municipal governing bodies, into single or multiple purchasing units to negotiate the purchase of electricity from REPs for the facilities of the aggregated political subdivisions. A political subdivision corporation aggregating political subdivisions pursuant to this subparagraph may take title to electricity.
 - (C) **Class II.C: Public body that aggregates its citizens.** A municipality or other political subdivision registered as a Class II.C aggregator pursuant to this subparagraph may negotiate for the purchase of electricity and energy services on behalf of each affirmatively requesting citizen of the municipality in accordance with Local Government Code §303.002, with the option to contract with a third party or another aggregator for the administration of the aggregation of the purchased services. An affirmatively requesting citizen is a resident of the political subdivision who voluntarily agrees to participate in the aggregation by a means that may be verified after the fact. If the Class II.C aggregator contracts for the administration function with a third party that is a person, other than its own employee, the person must be a registered Class II.D aggregator.
 - (D) **Class II.D: Administrator of citizen aggregation.** A person registered as a Class II.D aggregator pursuant to this subparagraph may administer the aggregation of electricity and energy services purchased for each requesting citizen of a municipality or other political subdivision in accordance with Local Government Code §303.002 pursuant to a contract with the municipality or political subdivision. An affirmatively requesting citizen is a resident of the political subdivision who voluntarily agrees to participate in the aggregation by a means that may be verified after the fact. A Class II.D aggregator must have verifiable authorization from the political subdivision to administer its citizen aggregation program. The authorization shall be written and may include conditions on

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.111(d)(4)(D) continued

the administrator's transactions with its affiliated REP, if any, when so specified by the political subdivision. The Class II.D registration authorizes its holder to administer a citizen aggregation program on behalf of the political subdivision but does not authorize its holder to negotiate for the purchase of electricity and energy services on behalf of the citizens of the political subdivision. An administrator of citizen aggregation must register pursuant to this subparagraph when the administrator meets the definition of "person" under this section, except when the administrator is an individual employed by the political subdivision conducting citizen aggregation pursuant to Local Government Code §303.002. A Class II.D aggregator may not take title to electricity and may not be a REP or an affiliate of a REP.

- (e) **Requirements for public bodies seeking to register as Class II.B or II.C aggregators.** A municipality, other political subdivision, or political subdivision corporation seeking to register and operate as a Class II.B or Class II.C aggregator in accordance with this section shall provide the following information on a registration form approved by the commission. This subsection does not apply to registering parties who are persons, as defined in this section.
- (1) The legal name of the registering party as well as any trade or commercial name(s) under which the registering party intends to operate;
 - (2) The registering party's Texas business address and principal place of business;
 - (3) The names and business addresses of the registering party's principal officers;
 - (4) The names of the registering party's affiliates and subsidiaries, if applicable;
 - (5) Telephone number of the customer service department or the name, title and telephone number of the customer service contact person;
 - (6) Name, physical business address, telephone number, fax number, and e-mail address for a regulatory contact person and for an agent for service of process, if a different person;
 - (7) The types of electricity customers that the registering party intends to aggregate; and
 - (8) Any other information required of public bodies on a registration form approved by the commission.
- (f) **Requirements for persons seeking to register as a Class I or Class II.A or Class II.D aggregator.** A person seeking any registration under this section shall provide evidence of competency and experience in providing the scope and nature of its proposed services by providing the information listed in either paragraph (1) or (2) of this subsection on a registration form approved by the commission. This subsection does not apply to registering parties who are municipalities, other political subdivisions, or political subdivision corporations.
- (1) Standard registration.
 - (A) The legal name(s) of the registering party. A registering party may operate under a maximum of five trade or commercial names. At the time of registration, the registering party shall provide all names to the commission and an explanation of its plan for disclosing the names to its customers;
 - (B) The Texas business address and principal place of business of the registering party;
 - (C) The name, title, business address, and phone number of each of the registering party's directors, officers, or partners;

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.111(f)(1) continued

- (D) Address and telephone number for the customer or member service department or the name, title and telephone number of the customer service contact person;
- (E) Name, physical business address, telephone number, fax number, and e-mail address for a Texas regulatory contact person and for an agent for service of process, if a different person;
- (F) The types of electricity customers that the registering party intends to aggregate;
- (G) Applicable information on file with the Texas Secretary of State, including, but not limited to, the registering party's endorsed certificate of incorporation certified by the Texas Secretary of State, a copy of the registering party's certificate of good standing, or other business registration on file with the Texas Secretary of State;
- (H) Disclosure of delinquency with taxing authorities in the state of Texas;
- (I) A description of prior experience, if any, of the registering party or one or more of the registering party's principals or employees in the retail electric industry or a related industry;
- (J) The names of the affiliates and subsidiaries, if any, of the registering party that provide utility-related services, such as telecommunications, electric, gas, water or cable service;
- (K) Disclosure of any affiliate or agency relationships and the nature of any affiliate or agency agreements with REPs or transmission and distribution utilities, and an explanation of plans for disclosure to customers and REPs with whom it does business, of its agency relationships with REPs;
- (L) A list of other states, if any, in which the registering party and registering party's affiliates and subsidiaries that provide utility-related services, such as telecommunications, electric, gas, water, or cable service, currently conduct or previously conducted business;
- (M) Disclosure of the registering party's known or anticipated sources of compensation for aggregation services, and an explanation of plans for disclosure to its customers of the sources of compensation for aggregation services;
- (N) Disclosure of the history of bankruptcy or liquidation proceedings of the registering party or any predecessors in interest in the three calendar years immediately preceding the registration request;
- (O) Disclosure of whether the registering party, a predecessor, an officer, director or principal has been convicted or found liable for fraud, theft or larceny, deceit, or violations of any customer protection or deceptive trade laws in any state;
- (P) A statement indicating whether the registering party is currently under investigation, either in this state or in another state or jurisdiction for violation of any customer protection law or regulation;
- (Q) The following information regarding the registering party's complaint history during the three years preceding the application:
 - (i) Any complaint history regarding the registering party, registering party's affiliates or subsidiaries that provide utility-related services, such as telecommunications, electric, gas, water, or cable service, the registering party's predecessors in interest, and principals with public utility commissions or public service commissions in other states where the registering party is doing business or has done business in the past. Relevant information shall include, but not be limited to, the number of complaints, the type of complaint, status of complaint, resolution of complaint and the number of customers in each state where complaints occurred. The Office of

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

Customer Protection shall provide similar complaint information on file at the commission for review.

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.111(f)(1)(Q) continued

- (ii) Any complaint history regarding the registering party, registering party's affiliates or subsidiaries that provide utility-related services, such as telecommunications, electric, gas, water or cable service, the registering party's predecessors in interest, and principals on file with the Texas Secretary of State, Texas Comptroller's Office, Office of the Texas Attorney General, and the Attorney General in other states where the registering party is doing business.
 - (R) For a person registering as a Class II.A aggregator, pending authorizations, if any, from public entities for the registering party to aggregate their loads.
 - (S) Any other information required of persons on a registration form approved by the commission.
- (2) **Alternative limited registration.** A person seeking registration pursuant to this paragraph may aggregate only customers who seek to contract for 250 kilowatts or more, per customer, of peak demand electricity. Requirements for registration under this paragraph are as follows:
 - (A) The person shall provide the commission a signed, notarized affidavit stating that it possesses a written consent from each customer it wishes to serve, authorizing the person to provide aggregation services for that customer;
 - (B) The person shall complete applicable portions of the registration form other than the information prescribed in paragraph (1)(J), (K), (L), (M) and (Q) of this subsection;
 - (C) The person shall meet financial requirements of this section, if applicable;
 - (D) A person registering on the basis of this paragraph is subject to the applicable post-registration requirements of subsection (i) of this section.
- (g) **Financial requirements for certain persons.** A person registering under this section who intends to take any deposits or other advance payments from electricity customers for aggregation services, as distinguished from electric services, shall demonstrate financial resources necessary to protect customers from the loss of deposits or other advance payments through fraud, business failure or other causes. Aggregation services are distinct from retail electric services. A person registered initially on the basis of not accepting customer deposits or other advance payments for aggregation services shall amend its registration with a showing to the commission that it is able to comply with the requirements of this subsection in advance of accepting deposits or other advance payments for aggregation services.
 - (1) **Standard financial qualifications.** The amount of required financial resources shall equal the registering person's cumulative obligations to customers arising from deposits or other advance payments for aggregation services made by customers prior to the delivery of aggregation services. A person registering under this paragraph shall disclose its methodology for calculating required financial resources on the registration form.
 - (A) **Financial evidence.** A aggregator may use any of the financial instruments listed below, as well as any other financial instruments approved in advance by the commission, in order to satisfy the financial requirements established by this rule.
 - (i) Cash or cash equivalent, including cashier's check or sight draft;
 - (ii) A certificate of deposit with a bank or other financial institution;
 - (iii) A letter of credit issued by a bank or other financial institution, irrevocable for a period of at least 15 months;
 - (iv) A line of credit or other loan issued by a bank or other financial institution, including a bond in a form approved by the commission, irrevocable for a period of at least 15 months;

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.111(g)(1)(A) continued

- (v) A loan issued by a subsidiary or affiliate of the applicant or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 15 months;
 - (vi) A guaranty issued by a shareholder or principal of the applicant; a subsidiary or affiliate of the applicant or a corporation holding controlling interest in the applicant irrevocable for period of at least 15 months.
- (B) **Loans or guarantees.** To the extent that it relies upon a loan or guaranty described in subparagraph (A)(v) or (vi) of this paragraph, the aggregator shall provide financial evidence sufficient to demonstrate that the lender or guarantor possesses the financial resources needed to fund the loan or guaranty.
- (C) **Unencumbered resources.** All cash and other instruments listed in subparagraph (A) of this paragraph as evidence of financial resources shall be unencumbered by pledges for collateral. These financial resources shall be subject to verification and review prior to registration of the aggregator and at any time after registration in which the aggregator relies on the cash or other financial instrument to meet the requirements under this subsection. The resources available to the aggregator must be authenticated by independent, third party documentation.
- (D) **Credit ratings.** To meet the requirements of this paragraph, a aggregator may rely upon either its own investment grade credit rating, or a bond, guaranty, or corporate commitment of an affiliate or another company, if the entity providing such security is also rated investment grade. The determination of such investment grade quality will be based on the ratings of either Standard & Poors (S&P) or Moody's Investor Services (Moody's). If the investment grade credit rating of either S&P or Moody's is suspended or withdrawn, the REP must provide alternative financial evidence consistent with this paragraph within ten days of the credit downgrade.
- (E) **Disclosure to financial backers.** A person registering under this paragraph shall provide evidence that a copy of this rule has been provided to any party providing, either directly or indirectly, financial resources necessary to protect customers pursuant to this paragraph.
- (F) **Ongoing Responsibilities.** A person registering under this paragraph is subject to the ongoing financial requirements and other applicable post-registration requirements of subsection (i) of this section.
- (2) **Alternative financial qualifications for limited registration.** A person seeking registration pursuant to this paragraph is limited to aggregating only customers who seek to contract for 250 kilowatts or more, per customer, of peak demand electricity. Requirements for registration on this limited basis are as follows:
- (A) The person shall provide the commission a signed, notarized affidavit indicating that it has a written consent from each customer it wishes to serve, stating that the customer is satisfied that the aggregator can provide aggregation services without establishing the cash and credit resources prescribed in paragraph (1) of this subsection.
 - (B) The person shall complete portions of the registration request form other than the information prescribed in paragraph (1) of this subsection;
 - (C) A person registering on the basis of this paragraph is subject to the applicable post-registration requirements of subsection (i) of this section.

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

- (h) **Registration procedures.** The following procedures apply to all entities seeking to register pursuant to this section:
- (1) A registration request shall be made on the form approved by the commission, verified by oath or affirmation, and signed by a registering party owner or partner, or an officer of the registering party. The form may be obtained from the Central Records division of the commission or from the commission's Internet site. Each registering party shall file its form to request registration with the commission's Filing Clerk in accordance with the commission's procedural rules, Chapter 22 of this title, Subchapter E (relating to Pleadings and Other Documents).
 - (2) The registering party may identify certain information or documents submitted that it believes to contain proprietary or confidential information. Registering parties may not designate the entire registration request as confidential. Information designated as proprietary or confidential will be treated in accordance with the standard protective order issued by the commission applicable to requests to register as an aggregator. If and when a public information request is received for information designated as confidential, the registering party has the burden of establishing that information filed pursuant to this rule is proprietary or confidential.
 - (3) An application shall be processed as follows:
 - (A) The registering party shall immediately inform the commission of any material change in the information provided in the registration request while the request is pending.
 - (B) The commission staff shall review the submitted form for completeness. Within 15 business days of receipt of an incomplete request, the commission staff shall notify the registering party in writing of the deficiencies in the request. The registering party shall have ten business days from the issuance of the notification to cure the deficiencies. If the deficiencies are not cured within ten business days, the staff will notify the registering party that the registration request is rejected without prejudice.
 - (C) Based upon the information provided pursuant to subsections (e), (f), and (g) of this section, the commission shall determine whether a registering party is capable of fulfilling customer protection provisions, disclosure requirements, and marketing guidelines of PURA.
 - (D) The commission shall determine whether to accept or reject the registration request within 60 days of the receipt of a complete application. Unacceptable registrations will be rejected without prejudice to refileing.
- (i) **Post-registration requirements.**
- (1) An aggregator may not refuse to provide aggregation services or otherwise discriminate in the provision of aggregation services to any customer because of race, creed, color, national origin, ancestry, sex, marital status, source or level of income, disability, or familial status; or refuse to provide aggregation services to a customer because the customer is located in an economically distressed geographic area or qualifies for low-income affordability or energy efficiency services; or otherwise unreasonably discriminate on the basis of the geographic location of a customer.
 - (2) An aggregator shall comply with the commission's education, disclosure, and marketing guidelines and rules, including those pertaining to customer protection and the filing of regular reports on customer complaints. An aggregator may not release proprietary customer information to any person unless the customer authorizes the release in a manner approved by

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.111(i)(2) continued

- the commission. An aggregator shall disclose to customers, when a customer requests aggregation services, all of its trade or commercial names, any agency relationships with REPs, and its sources of compensation for the provision of aggregation services.
- (3) An aggregator shall update any changes to business name, address, or phone number within ten business days from the date of the change.
 - (4) An aggregator shall notify the commission within 30 days of any material change to its registration request, or if the registrant ceases to meet any commission requirements.
 - (5) An aggregator may amend its registration by providing only the information relevant to the amendment on the registration form. The amendment shall be submitted pursuant to subsection (h)(1) of this section.
 - (6) An aggregator shall file an annual report with the commission on September 1 of each year on a form approved by the commission.
 - (7) An aggregator that is required to demonstrate financial qualifications specified in subsection (g)(1) of this section are subject to the following ongoing conditions:
 - (A) The aggregator shall maintain records on an on-going basis for any advance payments received from customers. Financial resources required under subsection (g)(1)(A) - (C) of this section, shall be maintained at levels sufficient to demonstrate that the registrant can cover all advanced payments that are outstanding at any given time.
 - (B) The aggregator shall file a sworn affidavit demonstrating compliance with subsection (g)(1)(A) - (D) of this section within 90 days of receiving the first payment for aggregation services before those services are rendered.
 - (C) Financial obligations to customers shall be payable to them within 30 business days from the date the aggregator notifies the commission that it intends to withdraw its registration or is deemed by the commission not able to meet its current customer obligations. Customer payment obligations shall be settled before registration is withdrawn.
 - (D) Financial resources required pursuant to subsection (g)(1) of this section shall not be reduced by the aggregator without the advance approval of the commission.
 - (E) The annual update required by paragraph (6) of this subsection shall include a sworn affidavit attesting to compliance with subsection (g)(1) of this section, and an explanation of the methodology for that compliance.
 - (F) The aggregator shall maintain records on an ongoing basis of authorizations from the public entities that have authorized it to provide aggregation services.
 - (8) A person that initially received its registration on the basis of not accepting payments for aggregation services, and was therefore not subject to subsection (g) of this section, shall amend its registration with a showing to the commission that it is able to comply with the requirements of subsection (g) of this section in advance of accepting payments.
 - (9) Persons registered pursuant to the alternative requirements for limited registration specified in subsections (f)(2) and (g)(2) of this section shall make available to the commission the written consent of individual customers, if requested.
 - (10) A registered aggregator that ceases to provide aggregation services may withdraw its registration by notifying the commission 30 days prior to ceasing operations and providing proof of refund of any monies owed to customers. An aggregator that withdraws its registration is not required to comply with paragraphs (1) - (9) of this subsection, following such a withdrawal.

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.111(i) continued

- (11) A registration shall not be transferred without prior commission approval. The transferee shall submit an application for registration in accordance with this section. The commission shall determine whether to approve the transfer within 60 days of the receipt of a complete application submitted in accordance with subsection (h) of this section.
- (j) **Suspension and revocation of registration and administrative penalty.** Pursuant to PURA §39.356, registrations granted pursuant to this section are subject to suspension and revocation for significant violations of PURA or other rules adopted by the commission. At its discretion, the commission may also impose an administrative penalty for a significant violation. Significant violations include, but are not limited to, the following:
- (1) providing false or misleading information to the commission;
 - (2) engaging in fraudulent, unfair, misleading, deceptive or anti-competitive practices;
 - (3) failing to maintain the minimum level of financial resources required under subsection (g)(1) of this section, if applicable;
 - (4) a pattern of failure to meet the conditions of this section, other commission rules, or orders;
 - (5) bankruptcy, insolvency, or failure to meet its financial obligations on a timely basis;
 - (6) suspension or revocation of a registration, certification, or license by any state or federal authority;
 - (7) conviction of a felony by the registrant or a principal or officer employed by the registrant, of any crime involving fraud, theft or deceit related to the registrant's aggregation service;
 - (8) failure to operate within the applicable legal parameters established by PURA §§39.353, 39.354, 39.3545, and Local Government Code Chapter 303;
 - (9) failure to respond to commission inquiries or customer complaints in a timely fashion;
 - (10) switching or causing to be switched the REP of a customer without first obtaining the customer's authorization; or
 - (11) billing an unauthorized charge, or causing an unauthorized charge to be billed to a customer's retail electric service bill.
- (k) **Sunset of affiliate limitation.** The provisions of this section that speak to a prohibition on aggregators from affiliating with REPs cease to be effective July 1, 2003. When this occurs, the agency disclosures required in subsections (f)(1)(K) and (i)(2) of this section shall also include a requirement to disclose any affiliate relationships between the aggregator and REPs.