

PROJECT NO. 33814

RULEMAKING CONCERNING	§	
PREPAID RETAIL ELECTRIC	§	PUBLIC UTILITY COMMISSION
SERVICE USING A CUSTOMER-	§	OF TEXAS
PREMISE PREPAYMENT DEVICE	§	

**PROPOSAL FOR PUBLICATION OF NEW §25.498
AS APPROVED AT THE FEBRUARY 9, 2007 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes new §25.498, relating to Prepaid Electric Service Using Customer-Premise Prepayment Devices. The section relates to minimum requirements for prepaid service using special customer-premise prepayment devices, including required functions for such devices, content of, frequency, and delivery of billing information, deferred payment plans, and interruption of service. The section is a competition rule subject to judicial review as specified in Public Utility Regulatory Act (PURA) §39.001(e). Project number 33814 is assigned to this proceeding.

The commission recognizes that some of the requirements of the existing customer protection rules are inconsistent with prepaid electric service using customer-premise prepayment devices. In this rule, the commission specifies which existing commission rules do not apply to prepaid electric service using special devices and establishes minimum standards that will apply to such service.

Christine Wright, Electric Industry Oversight Division, determined that for each year of the first five years that the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Wright determined that for each year of the first five years that the section is in effect, to the extent that customer-premise prepayment devices are deployed, the public benefit anticipated as a result of enforcing the section will be new, additional payment options and beneficial electric services that will be provided through the devices. There will be no adverse economic effect on small business or micro-businesses as a result of enforcing the section. There will be no economic cost to persons who are required to comply with the section, because deployment of the customer-premise prepayment devices is voluntary. Ms. Wright has also determined that for

each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

Comments on the new section may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, no later than March 16, 2007. Reply comments may be submitted to the same address no later than March 26, 2007. Sixteen copies of comments and reply comments on the section are required to be filed pursuant to §22.71(c) of this title. Comments and reply comments should be organized in a manner consistent with the organization of the section. The commission invites specific comments regarding the costs associated with, and the benefits that will be gained by, implementation of the section. The commission will consider the costs and benefits in deciding whether to adopt the new section. All comments should refer to Project Number 33814.

This new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2006), which directs the commission to adopt and enforce rules required in the exercise of its powers and jurisdiction; PURA §17.004, which directs the commission to establish and enforce customer protection standards, including protection from unfair, misleading, deceptive, or anticompetitive practices; the right to have bills presented in a clear, readable format and easy-to-understand language; and the right of low-income customers to have access to bill payment assistance programs designed to reduce uncollectible amounts; PURA §39.001, which adopts a policy that competition in the sale of electricity is consistent with the public interest and directs the commission to use competitive, rather than regulatory methods, to achieve this policy; and PURA §39.101, which requires customer safeguards, including the right to safe, reliable and reasonably priced electricity; protection against service disconnections in extreme weather emergencies or in cases of medical emergency; bills presented in a clear format and in a language readily understandable by customers; accuracy of meter reading and billing; and other protections necessary to ensure high-quality service to customers.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 17.004, 39.001, and 39.101.

§25.498. Retail Electric Service Using Customer-Premise Prepayment Devices.

(a) **Application.** This section applies to a retail electric provider (REP) that offers prepaid service using a customer-premise device with prepayment capabilities.

(1) If a REP meets the requirements of subsections (b) through (g) of this section, its prepaid service using customer-premise prepayment devices is exempt from the following requirements:

(A) §25.479(b) of this title (relating to Issuance and Format of Bills);

(B) §25.479(c)(1)(G) and (H) of this title; and

(C) §25.480(b), (h), (i), (j), and (k) of this title (relating to Bill Payment and Adjustments).

(2) If a REP meets the requirements of subsections (b) through (g) of this section, interruption of a customer's electric service is exempt from the requirements of §25.483 of this title (relating to Disconnection of Service).

(b) **Minimum requirements for prepaid service using a customer-premise prepayment device.**

(1) A REP shall file with the commission a written description of its prepaid services using a customer-premise prepayment device prior to offering such services to customers. The description shall include the technical specifications of its customer-premise prepayment device and a detailed description of how the REP will meet the applicable requirements of this subchapter (Subchapter R, Customer Protection Rules for Retail Electric Service).

(2) A customer-premise prepayment device may either be a meter owned or controlled by a REP or a device that communicates with a transmission distribution utility (TDU) advanced meter that will permit the customer's service to be interrupted if the customer's prepayment is exhausted and interruption of power is not prohibited under this section.

(3) A REP-owned meter with prepayment capabilities (special meter) may be considered a customer-premise prepayment device. However, a REP shall not deploy a special meter that has not been successfully installed in at least 500

residences in North America, Australia, Japan, or Western Europe. No special meter that violates the test calibration limits as set by the American National Standards Institute, Incorporated shall be placed in service or left in service. Whenever a test indicates a special meter violates these limits, the meter shall promptly be replaced or made to comply with these limits.

- (4) Prepaid retail electric service shall include a means by which the REP may communicate the information required by this subsection to the customer, such as but not limited to a customer information unit in the customer's premises, email, telephone, or mobile phone communications or other electronic communications as described in the REP's terms of service. If a REP offers multiple means by which it communicates information required by this subsection to the customer, it shall allow the customer to choose the means in which the customer receives communication.
- (5) Prepaid retail electric service shall include a means by which the customer may make payments for service at the customer's premises, at a location near the customer's premises, or by using two prepayment devices located at the premises and near the premises.
- (6) A customer-premise prepayment device shall:
- (A) allow a customer to prepay a REP for electric service;
 - (B) communicate to the customer in English or Spanish the customer's current balance, time and date, electricity usage since last payment in kilowatt-hours, electricity rate, and estimated time or days of paid electricity remaining;
 - (C) communicate to the customer the name of the REP and the REP's toll-free customer service telephone number;
 - (D) communicate to the customer a warning at least three days and not more than seven days before a customer's prepaid balance is estimated to drop to zero;
 - (E) provide a means to store electricity usage information for at least 60 days and a means for the customer to access this information;

- (F) when a customer makes a payment, provide a written receipt or confirmation of payment that includes the customer's account number, payment amount, and itemization of any charges in addition to the prepayment or provide a confirmation code that will permit the customer to access such information; and
- (G) be removed easily or switched into bypass mode for customers who choose a different REP or an electric service that does not require prepayment .
- (7) The communication provided under paragraph (6)(B) of this subsection shall either be available to the customer whenever the customer initiates a request for the information or shall be provided at least daily.
- (8) A REP shall test a customer-premise prepayment device that meters consumption for accuracy free of charge one time every four years upon a request of a customer. The REP shall maintain records of testing for at least four years. Prepayment mechanisms shall accurately account for customer payments.
- (c) **Disclosures.** In addition to the other disclosures required by this title, the terms of service and Your Rights as a Customer for prepaid service under this section shall include a prominent disclosure that if the customer's prepayment balance is exhausted, the customer's service may be interrupted.
- (d) **Notice of customer names.** If a REP uses a customer-premise prepayment device consistent with this section, it shall provide the Electric Reliability Council of Texas (ERCOT) and the transmission and TDU the name, service and mailing addresses, and electric service identifier (ESI) of each customer with such a device. The REP shall treat each person taking prepaid service with such a device as a customer for purposes of this subchapter, including §25.471 of this title (relating to General Provisions of Customer Protection Rules). A REP offering such a service to multiple tenants at a single location may also designate a property owner or property manager as the customer of record for the purpose of transactions with ERCOT and the TDU, but it shall provide ERCOT the name of each tenant that is taking such service.

(e) Summary of electric charges.

- (1) REPs providing electric prepayment service using a customer-premise prepayment device are not required to issue traditional bills or invoices to their customers. A REP using a customer-premise prepayment device shall issue a summary of electric charges to each prepaid electric service customer upon request. A summary of electric charges shall be in writing and delivered by the REP's employee or agent; by electronic means if the customer agrees in writing; or by the United States Postal Service.
- (2) A summary of electric charges shall include the information specified in §25.479(c) of this title, except that the information specified in §25.479(c)(1)(G) and (H) is not required. The summary of electric charges shall also include dates and amounts of payments made during the period covered by the summary.
- (3) A REP shall keep records necessary to produce a summary of electric charges for two years.
- (4) Within one business day of receiving a request, a REP shall provide a summary of electric charges showing a customer's electric payments and usage for one year to an energy assistance provider that shows proof of authorization to obtain the information.

(f) Deferred payment plans. A deferred payment plan for a customer taking prepaid service using a customer-premise prepayment device is an agreement between the REP and a customer that allows a customer to pay outstanding charges in installments. A deferred payment plan may be established in person or by telephone, but shall be confirmed in writing by the REP.

- (1) A REP shall offer a deferred payment plan to customers, upon request, whose prepaid account balance is exhausted during an extreme weather emergency, pursuant to subsection (g)(5) of this section.
- (2) A REP shall offer a deferred payment plan to a customer who has been underbilled, as described in §25.480(e) of this title.

- (3) For customers who have expressed an inability to pay, a REP may offer a deferred payment plan.
- (4) A REP shall not refuse a customer's participation in any deferred payment plan on any basis set forth in §25.471(c) of this title.
- (5) A deferred payment plan offered by a REP shall provide that it shall be paid in installments that a customer may make over at least three months. A REP may require an initial payment not to exceed 25% of any outstanding balance.
- (6) A copy of the deferred payment plan shall be provided to the customer and:
- (A) shall include a statement, in clear and conspicuous type, that states, "If you are not satisfied with this agreement, or if the agreement was made by telephone and you believe this does not reflect your understanding of that agreement, contact (insert name of REP)." In addition, where the customer and the REP's representative or agent meets in person, the representative shall read the preceding statement to the customer;
- (B) may include a penalty not to exceed 5.0% for late payment, but shall not include a finance charge;
- (C) shall state the length of time covered by the plan;
- (D) shall state the total amount to be paid under the plan;
- (E) shall allow the REP to interrupt a customer's power supply if the customer does not fulfill the terms of the deferred payment plan, and shall state the terms under which a customer's power supply may be interrupted; and
- (F) shall allow either the customer or the REP to initiate a renegotiation of the deferred payment plan if the customer's economic or financial circumstances change substantially during the time of the deferred payment plan.

(g) Interruption of electric service.

- (1) A REP shall not allow a customer's electric service to be interrupted on a holiday or weekend, or the day immediately preceding a holiday or weekend, because the customer's prepaid balance has been exhausted, unless the REP is readily able on those days to accept payment and promptly resume electric service.

- (2) A REP shall not allow a customer's electric service to be interrupted because the customer's prepaid balance has been exhausted between 9 p.m. and 7 a.m. or during any period in which the prepayment mechanisms are not available or the REP's customer service center is not operating.
- (3) A REP shall not allow a customer's electric service to be interrupted because the customer's prepaid balance has been exhausted when the customer establishes that interruption of service will cause some person residing at that residence to become seriously ill or more seriously ill, and the requirements of subparagraph (A) of this paragraph have been met.
- (A) Each time a customer seeks to avoid interruption of service under this paragraph, the customer shall accomplish all of the following before the customer's service is interrupted:
- (i) 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 public health official) submit a written statement to the REP stating that interruption of service will cause some person residing at that residence to become seriously ill or more seriously ill; and
- (ii) enter into a deferred payment plan.
- (B) The prohibition against service interruption provided by this paragraph shall last the lesser of 63 days from the date the REP receives a written statement from the attending physician, or a period agreed upon by the REP and the customer or physician.
- (4) A REP shall not allow a customer's electric supply service to be interrupted because the customer's prepaid balance has been exhausted if the REP receives a pledge, letter of intent, purchase order, or other notification from an electric assistance provider that it is forwarding sufficient payment to continue service; and the customer either pays or makes payment arrangements to pay any amount due that is not covered by the energy assistance provider.

- (A) 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 not allow a customer's electric service to be interrupted because the customer's prepaid balance has been exhausted until five business days after it has provided the usage data.
- (B) A REP may interrupt a customer's electric service if payment from the energy assistance provider's commitment is not timely received, or if the customer fails to pay any portion of the amount not covered by the commitment.
- (5) A REP shall not allow a customer's electric supply service to be interrupted because the prepaid balance has been exhausted during an extreme weather emergency in the county in which the service is provided.
- (A) The term "extreme weather emergency" shall mean a day when:
- (i) 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
 - (ii) the NWS issues a heat advisory for the county, or when such advisory has been issued on any one of the preceding two calendar days in the county.
- (B) During an extreme weather emergency, a REP shall offer a residential customer a deferred payment plan upon request by the customer that complies with the requirements of subsection (f) of this section.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 9th DAY OF FEBRUARY 2007 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

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