

PROJECT NO. 27084

**PUC RULEMAKING TO REVISE § PUBLIC UTILITY COMMISSION
CUSTOMER PROTECTION RULES §
§ OF TEXAS**

**PROPOSAL FOR PUBLICATION OF NEW §§25.486-25.490
AS APPROVED AT THE MARCH 5, 2003 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes new §25.486, relating to Establishment of Service for Customers Disconnected for Non-Payment; §25.487, relating to Obligations Related to Move-In Transactions; §25.488, relating to Termination of Service to a Premise with No Contract; §25.489, relating to Treatment of Premises with No Retail Electric Provider of Record; and §25.490, relating to Moratorium on Disconnection on Move-Out. Project Number 27084 has been assigned to this proceeding.

The primary goal of the project is to standardize the move-in and move-out processes to reduce the number of customers without a retail electric provider (REP) of record, reduce the amount of unaccounted for energy (UFE) and implement performance standards to lift the moratorium on disconnections when a customer moves out of a premise. These rules will reduce costs to market participants, reduce confusion from customers, and provide certainty in the competitive retail electric market in Texas.

Proposed new §25.486, relating to Establishment of Service for Customers Disconnected for Non-Payment, will clarify switching procedures when a customer is due to be disconnected by their REP, therefore reducing the possibility or length of time that the

customer will be without electric service. Proposed new §25.487, relating to Obligations Related to Move-In Transactions, will ensure that customers who move into a premise will receive power in a timely manner. Proposed new §25.488, relating to Termination of Service to a Premise with No Contract, will require a REP to either establish a contract for service with the new customer or transfer the customer to the affiliated REP.

In January 2002, transmission and distribution utilities (TDUs) stopped disconnecting electric service when a residential customer moves out of a premise. This suspension of the move-out disconnection procedure was meant to be a temporary workaround to facilitate the timelier provisioning of service when a new customer moved into a recently vacated premise. The commission directed TDUs to continue the workaround until automated move-in transaction processing was operating successfully. A consequence of this workaround has been that when customers move into an energized premise, they may continue to receive service without selecting a REP. The energy used by these customers is not assigned to any REP, and is therefore UFE. Proposed new §25.489, relating to Treatment of Premises with No Retail Electric Provider of Record, will standardize the procedures TDUs must take to provide notice to these customers, will reduce the number of customers who are receiving energy but have no REP of record, and will reduce the amount of UFE. Finally, proposed new §25.490, relating to Moratorium on Disconnection on Move-Out, will establish a performance threshold for TDUs to meet before the moratorium is lifted.

Carrie Collier, Analyst, Retail Market Oversight, Electric Division, has determined that for each year of the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Collier has also determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be a well-ordered and more efficient market place that protects customers while promoting competition in the provision of retail electric power service to customers. Furthermore, there will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing these sections. There may be economic costs to persons who are required to comply with the proposed sections. These costs are likely to vary from business to business and are difficult to ascertain. However, it is believed that the benefits accruing from implementation of the proposed sections will outweigh these costs.

Ms. Collier has determined that for each year of the first five years the proposed sections are in effect there should be no effect on a local economy, and, therefore, no local employment impact statement is required under Administrative Procedure Act §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the

commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Wednesday, May 7, 2003, 1:30-4:00 p.m. The request for a public hearing must be received no later than April 21, 2003.

The commission seeks comments on the proposed new section from interested persons. Comments on the proposal (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326. The deadline for submission of comments is April 21, 2003. Reply comments are due by April 30, 2003. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should be filed in Project Number 27084.

In addition to the proposed new sections, the commission requests comments on the following questions:

Should the rule allow TDUs to bill retail customers for past transmission and distribution charges who have been receiving electricity but have not been billed because there is no REP of record associated with the premise? If backbilling for past TDU charges is appropriate, should the TDU be required to pass the charges through the customer's REP, or should the TDU be permitted to bill the consumer directly? Should the rule limit the

TDU's backbilling to six months? What recourse, if any, should the TDU have if the customer with no REP of record does not pay the TDU for backbilled wires charges?

The commission proposes these new sections pursuant to the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2003) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction. The commission also proposes these sections pursuant to PURA §39.101, which grants the commission authority to establish various, specific protections for retail customers; PURA §39.102, which provides retail customer choice; and PURA chapter 17, subchapters A, C and D, which deal, respectively, with general provisions relating to customer protection policy, the retail customer's right to choice, and protection of the retail customer against unauthorized charges.

Cross Reference to Statutes: PURA §§14.002, 39.101, 39.102, and PURA chapter 17, subchapters A, C, and D.

§25.486. Establishment of Service for Customers Disconnected for Non-payment.

- (a) **Applicability.** This section applies to all retail electric providers (REPs).

- (b) **Customer right to switch.** A customer who has received notice of disconnection from the customer's current REP, consistent with §25.483 of this title (relating to Disconnection of Service), may enroll with another REP, consistent with §25.474 of this title (relating to Selection or Change of Retail Electric Provider).

- (c) **Pending disconnects.** If a customer has received a disconnection notice, but has not yet been disconnected, and arranges service with another REP:
 - (1) the connecting REP shall request a switch that does not conform with the customer's normal meter reading cycle (out-of-cycle switch) if the switch can be completed prior to the disconnection; or
 - (2) the connecting REP shall request the initiation of service through a move-in transaction, in accordance with §25.487 of this title (relating to Obligations Related to Move-In Transactions), if an out-of-cycle switch would not be completed until after the scheduled disconnection. In this instance, the customer shall be responsible for the payment of any usage incurred during the three-day cancellation period, as provided for in §25.474(h) of this title.

- (d) **Completed disconnects.** If a customer has been disconnected by the customer's current REP, consistent with §25.483 of this title, and arranges for service with another REP, the connecting REP shall request the initiation of service through a move-in transaction, in accordance with §25.487 of this title. In this instance, the customer is responsible for the payment of any usage incurred during the three day cancellation period, as provided for in §25.474(h) of this title.

§25.487. Obligations Related to Move-In Transactions.

- (a) **Applicability.** This section applies to all retail electric providers (REPs).
- (b) **Definition.** For this section, the term "safety-net process" means a process developed and implemented by the stakeholders in the Texas retail electric market in 2002 to ensure that a customer who moves into a residence at which a meter is already installed receives power in a timely manner.
- (c) **Standard move-in request.** In order to fulfill the request of a customer of any class to begin electric service, a REP shall submit a move-in transaction to the registration agent electronically, in accordance with applicable protocols and guidelines of the independent organization.
- (d) **Safety-net move-in request.** In the event a REP does not receive a confirmation that the transmission and distribution utility (TDU) has received the appropriate move-in request transaction from the Electric Reliability Council of Texas (ERCOT) on or before 5:00 p.m. two days prior to the customer's move-in date, the REP shall then submit the move-in request using the safety-net process.
 - (1) The safety-net process shall be used only for premises that already have a meter installed at the premise. Where installation of a meter is required,

the REP shall follow the transactions specified in the ERCOT protocols and not the safety-net process.

- (2) In submitting a move-in request using the safety-net process, the REP establishes its right to serve the customer at the location identified by the electric service identifier (ESI ID) from the date the TDU receives the safety-net move-in request. The date the TDU receives the safety-net request is the effective date for all wires charges and fees associated with that ESI ID. The TDU may bill monthly wires charges and fees to the REP, even if the TDU does not receive the standard move-in transaction by the date the TDU would bill the REP for delivery of service to the location.
- (3) Even if a safety-net process move-in has been initiated or has taken place, the REP shall ensure that the standard move-in electronic transaction is submitted to ERCOT in accordance with applicable protocols. The REP shall work with ERCOT and the TDU to ensure that the appropriate premise information and enrollment response transaction is sent to and received by the REP and that appropriate notice is sent to any prior REP of record in the TDU's or ERCOT's system.

§25.488. Termination of Service to a Premise with No Contract.

- (a) **Applicability.** This section applies to all retail electric providers (REPs).

- (b) **Service to premise with no contract.** If a REP finds that a customer at a premise is not the customer with whom the REP currently has a contract for retail electric service, or has had a contract for retail electric service that has expired, the REP may:
 - (1) establish service with the new customer. The REP shall obtain verification of the customer's election to establish service with the REP consistent with the requirements of §25.474 of this title (relating to Selection or Change of Retail Electric Provider); or
 - (2) issue a notice of termination of service to the customer. The notice shall contain the following:
 - (A) The date the termination will occur, provided that the termination date shall not be sooner than ten business days from the date the notice is issued;
 - (B) For notices issued by a non-affiliated REP in the case of residential and small non-residential customers, as those terms are defined in §25.43 of this title (relating to Provider of Last Resort (POLR)), the customer's service shall be transferred to the affiliated REP if

the customer does not respond within ten business days after issuance of the notice;

- (C) For notices issued by the affiliated REP to residential and small non-residential customers, as those terms are defined in §25.43 of this title, service shall be disconnected if the customer does not respond within ten business days after the issuance of the notice;
- (D) For notices issued to large non-residential customers, as that term is defined in §25.43 of this title, service shall be transferred to the provider of last resort if the customer does not respond within ten business days after the issuance of the notice;
- (E) What actions the customer must take if they believe they have received the notice in error or desire to establish service with the REP; and
- (F) A statement that informs the customer of the right to obtain service from another licensed REP and that information about other REPs can be obtained from the commission.

- (c) **Termination of service to residential and small non-residential customer by non-affiliated REPs.** If a non-affiliated REP terminates service with the customer, the REP shall transfer that customer to the affiliated REP using the procedures established by the independent organization in order to effectuate the termination of contract provision in §25.482(b) of this title (relating to

Termination of Contract). The affiliated REP shall submit a switch request within three business days after receiving the transfer request to be effective on the next meter read date. The non-affiliated REP that is terminating the service may request an out-of-cycle meter switch, but it shall reimburse the affiliated REP for the out-of-cycle meter read charge.

- (d) **Disconnection of residential and small non-residential customer by affiliated REP.** If an affiliated REP disconnects service with the customer, it shall comply with the requirements of §25.483 of this title (relating to Disconnection of Service).

- (e) **Termination of service to a large non-residential customer.** If a REP terminates electric service at a location to a large non-residential customer, the REP shall transfer that customer to the provider of last resort in accordance with §25.43(n) of this title.

- (f) **Prohibition on using move-out transactions.** A REP may not submit a move-out transaction, as defined by ERCOT protocols, to effectuate the transfers under this section.

§25.489. Treatment of Premises with No Retail Electric Provider of Record.

- (a) **Applicability.** This section applies to all transmission and distribution utilities (TDUs) and retail electric providers (REPs) in areas open to retail customer choice.

- (b) **Definition.** For this section, the term "no REP of record" means a premise that is receiving electricity but does not have a REP designated as serving the premise in the TDU's system.

- (c) **Obligation of TDUs to identify premises with no REP of record.** Each TDU shall implement the following procedures to identify those premises that have no REP of record:
 - (1) Each TDU shall prepare a No REP of record list identifying all premises with consumption greater than 150 kilowatt hours (kWh) but no REP of record in the TDU's Customer Information System on a monthly basis;
 - (2) Each TDU shall delete a premise from the list if there is evidence of erroneous meter reads for a residential premise;
 - (3) Each TDU shall cross reference the list with ERCOT's pending orders to identify any move-in transactions that indicate that a REP is initiating service at a premise on the list and remove such premises from the list;

- (4) Each TDU shall review safety-net move-in requests to initiate service and remove such premises from the list; and
- (5) Each TDU shall review its internal systems for pending transactions and any correspondence from REPs claiming that a premise should be assigned to the REP. Any corresponding matches of premises shall be removed from the list.

- (d) **Submission of no REP of record list to REPs.** Each TDU shall send the No REP of Record List to all REPs offering service in its service area. Within three business days after receiving a TDU's list, a REP shall inform the TDU in writing if it has a contract with a customer for a location on the list. The TDU shall delete all claimed premises from the list. Door hangers shall be used to provide notice of possible termination of service at the locations on the final list in accordance with subsections (f)-(g) of this section.

- (e) **Prohibition on use of No REP of Record List.** REPs shall not use the No REP of Record List as a marketing tool. The list is a means of "cleaning up" those accounts and synchronizing responsibilities in the market. Nothing in this section is meant to absolve a REP of its responsibilities under §25.474 of this title (relating to Selection or Change of Retail Electric Provider).

(f) **Customer notification.** TDUs shall issue standard bilingual residential and commercial door hangers for all remaining premises on the final No REP of Record List in a format consistent with subsection (h) of this section.

(g) **Wires charges billed to customer with no REP of record.** Once a customer at a premise with no REP of record has enrolled with a REP, the TDU may send a bill to the customer for wires charges from the date of the last move-out transaction that completed the transaction life cycle, or for the previous six months, whichever is less. The TDU invoice statement shall display the usage at the premise for each back-billed month. Prior to issuing any such bills, the TDU shall submit to commission staff for review, a prototype of the invoice statement.

(h) **Door hanger format.** Door hangers shall have the identifying code #999 printed in bold letters to enable the REPs to identify customers contacting them as premises on the No REP of Record List and shall comply with the content requirements of this subsection.

(1) The Door hangers shall include the following information and be formatted as follows:

Date: _____

Address: _____

DISCONNECT NOTICE

Code #999

The State of Texas requires all customers to have a Retail Electric Provider (REP) before receiving electric service. Our records indicate that you do not have a REP and are not receiving bills for electric service. Thus, you have not been billed for the electricity used at these premises.

In order to avoid any disruption in your service, you must select and enroll with a REP no more than ten (10) business days from the date of this notice.

To ensure proper identification of your premise, please inform the REP you have a Code 999 order to process. If you do not enroll with a REP within ten (10) business days, electricity to this address will be disconnected.

If you have already contacted a REP to set up an electric service account, we urge you to contact your REP to check the status of your request to avoid disconnection of service.

A list of REPs is printed below. If you have selected a REP and believe this notice is in error, please contact your REP immediately. You may call the Public Utility Commission of Texas (PUC) toll-free at 1-888-782-8477 to address any questions that your REP cannot answer.

- (2) A comprehensive list of REPs serving residential customers in the TDU's territory, including each REP's toll-free number and website address (if available), shall be listed on the door hanger.
- (i) **REP obligation to submit move-in transaction.** A REP that enrolls a premise in response to the door hanger shall submit a move-in transaction, not a switch transaction, to the registration agent in accordance with the requirements of §25.487 of this title (relating to Obligations Related to Move-In Transactions).
- (j) **Disconnection of premise with no REP of record.** Each TDU may disconnect a premise with no REP of record eleven business days after the customer receives the door hanger notification. Prior to disconnecting the service for a premise with no REP of record, each TDU shall repeat the procedures listed in subsection (c) of this section (other than issuing notice by a door hanger) to prevent the disconnection of a customer who has initiated service with a REP. A TDU shall not disconnect any premise that has been claimed by a REP in accordance with this section.

§25.490. Moratorium on Disconnection on Move-Out.

- (a) **Applicability.** This section applies to all transmission and distribution utilities (TDUs).

- (b) **Moratorium on disconnection on move-out.** A TDU shall not disconnect a residential premise after receiving a move-out transaction unless the requirements of this section have been met.

- (c) **Filing requirement.** A TDU shall report monthly its success rate in processing standard electronic move-in requests on or before the requested date. A TDU shall also report its success rate in processing requests for reconnection of electric service on or before the requested date. Such reports shall be due on the 10th day following the last day of the reporting month.

- (d) **Relaxation of moratorium on disconnection.** A TDU may disconnect residential premises after receiving a move-out transaction, as defined in the Electric Reliability Council of Texas (ERCOT) protocols, if it demonstrates that it has for three consecutive months or more processed 95% or greater of all move-in and requests for reconnection of electric service on or before the requested date. A TDU shall immediately stop disconnecting residential premises on move-out if

its success rate reported in subsection (c) of this subsection falls below 95% for more than two consecutive months or below 85% in one month.

- (e) **Elimination of reporting requirement.** The reporting requirement in subsection (c) of this section will no longer apply to a TDU that demonstrates a 95% success rate for 12 consecutive months.

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

**ISSUED IN AUSTIN, TEXAS ON THE 7th DAY OF MARCH 2003 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**