

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter B. CUSTOMER SERVICE AND PROTECTION.

§25.28. Bill Payment and Adjustments.

- (a) **Bill due date.** The bill provided to the customer shall include the payment due date which shall not be less than 16 days after issuance. The issuance date is the postmark date on the envelope or the issuance date on the bill if there is no postmark on the envelope. A payment for electric utility service is delinquent if not received at the electric utility or at the electric utility's authorized payment agency by the close of business on the due date. If the sixteenth day falls on a holiday or weekend, then the due date shall be the next work day after the sixteenth day.
- (b) **Penalty on delinquent bills for retail service.** A one-time penalty not to exceed 5.0% may be charged on a delinquent commercial or industrial bill. The 5.0% penalty on delinquent bills may not be applied to any balance to which the penalty has already been applied. An electric utility providing any service to the state of Texas shall not assess a fee, penalty, interest, or other charge to the state for delinquent payment of a bill.
- (c) **Overbilling.** If charges are found to be higher than authorized in the utility's tariffs, then the customer's bill shall be corrected.
 - (1) The correction shall be made for the entire period of the overbilling.
 - (2) If the utility corrects the overbilling within three billing cycles of the error, it need not pay interest on the amount of the correction.
 - (3) If the utility does not correct the overcharge within three billing cycles of the error, it shall pay interest on the amount of the overcharge at the rate set by the commission each year.
 - (A) The interest rate shall be based on an average of prime commercial paper rates for the previous 12 months.
 - (B) Interest on overcharges that are not adjusted by the electric utility within three billing cycles of the bill in error shall accrue from the date of payment or from the date of the bill in error.
 - (C) All interest shall be compounded monthly based on the annual rate.
 - (D) Interest shall not apply to leveling plans or estimated billings.
- (d) **Underbilling.** If charges are found to be lower than authorized by the utility's tariffs, or if the electric utility failed to bill the customer for service, then the customer's bill may be corrected.
 - (1) The electric utility may backbill the customer for the amount that was underbilled. The backbilling shall not collect charges that extend more than six months from the date the error was discovered unless the underbilling is a result of theft of service by the customer.
 - (2) The electric utility may disconnect service if the customer fails to pay underbilled charges.
 - (3) If the underbilling is \$50 or more, the electric utility shall offer the customer a deferred payment plan option for the same length of time as that of the underbilling. A deferred payment plan need not be offered to a customer whose underpayment is due to theft of service.
 - (4) The utility shall not charge interest on underbilled amounts unless such amounts are found to be the result of theft of service (meter tampering, bypass, or diversion) by the customer, as defined in §25.126 of this title. Interest on underbilled amounts shall be compounded monthly at the annual rate and shall accrue from the day the customer is found to have first stolen (tampered, bypassed or diverted) the service.

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- (e) **Disputed bills.**
 - (1) If there is a dispute between a customer and an electric utility about a bill for service, the electric utility shall investigate and report the results to the customer. If the dispute is not resolved, the electric utility shall inform the customer of the complaint procedures of the commission pursuant to §25.30 of this title (relating to Complaints).
 - (2) A customer's service shall not be disconnected for nonpayment of the disputed portion of the bill until the dispute is completely resolved by the electric utility.
 - (3) If the customer files a complaint with the commission, a customer's service shall not be disconnected for nonpayment of the disputed portion of the bill before the commission completes its informal complaint resolution process and informs the customer of its determination.
 - (4) The customer is obligated to pay any billings not disputed.

- (f) **Notice of alternate payment programs or payment assistance.** When a customer contacts an electric utility and indicates inability to pay a bill or a need for assistance with the bill payment, the electric utility shall inform the customer of all alternative payment and payment assistance programs available from the electric utility, such as deferred payment plans, disconnection moratoriums for the ill, or energy assistance programs, as applicable, and of the eligibility requirements and procedure for applying for each.

- (g) **Level and average payment plans.** Electric utilities with seasonal usage patterns or seasonal demands are encouraged to offer a level or average payment plan.
 - (1) The payment plan may use one of the following methods:
 - (A) A level payment plan allowing residential customers to pay one-twelfth of that customer's estimated annual consumption at the appropriate customer class rates each month, with provisions for annual adjustments as may be determined based on actual electric use.
 - (B) An average payment plan allowing residential customers to pay one-twelfth of the sum of that customer's current month's consumption plus the previous 11 months consumption (or an estimate, for a new customer) at the appropriate customer class rates each month, plus a portion of any unbilled balance.
 - (2) If a customer for electric utility service does not fulfill the terms and obligations of a level payment agreement or an average payment plan, the electric utility shall have the right to disconnect service to that customer pursuant to §25.29 of this title (relating to Disconnection of Service).
 - (3) The electric utility may require a customer deposit from all customers entering into level payment plans or average payment plans pursuant to the requirements §25.24 of this title (relating to Credit Requirements and Deposits). The electric utility shall pay interest on the deposit and may retain the deposit for the duration of the level or average payment plan.

- (h) **Payment arrangements.** A payment arrangement is any agreement between the electric utility and a customer that allows a customer to pay the outstanding bill after its due date but before the due date of the next bill. If the utility issued a disconnection notice before the payment arrangement was made, that disconnection should be suspended until after the due date for the payment arrangement. If a customer does not fulfill the terms of the payment arrangements, the electric utility may disconnect service after the later of the due date for the payment arrangement or the disconnection date indicated in the disconnection notice, pursuant to §25.29 of this title without issuing an additional disconnection notice.

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- (i) **Deferred payment plans.** A deferred payment plan is any written arrangement between the electric utility and a customer that allows a customer to pay an outstanding bill in installments that extend beyond the due date of the next bill. A deferred payment plan may be established in person or by telephone, and all deferred payment plans shall be put in writing.
- (1) The electric utility shall offer a deferred payment plan to any residential customer, including a guarantor of any residential customer, who has expressed an inability to pay all of the bill, if that customer has not been issued more than two disconnection notices during the preceding 12 months.
 - (2) Every deferred payment plan shall provide that the delinquent amount may be paid in equal installments lasting at least three billing cycles.
 - (3) When a customer has received service from its current electric utility for less than three months, the electric utility is not required to offer a deferred payment plan if the customer lacks:
 - (A) sufficient credit; or
 - (B) a satisfactory history of payment for service from a previous utility.
 - (4) Every deferred payment plan offered by an electric utility:
 - (A) shall state, immediately preceding the space provided for the customer's signature and in boldface type no smaller than 14 point size, the following: **"If you are not satisfied with this contract, or if agreement was made by telephone and you feel this contract does not reflect your understanding of that agreement, contact the electric utility immediately and do not sign this contract. If you do not contact the electric utility, or if you sign this agreement, you may give up your right to dispute the amount due under the agreement except for the electric utility's failure or refusal to comply with the terms of this agreement."** In addition, where the customer and the electric utility representative or agent meet in person, the electric utility representative shall read the preceding statement to the customer. The electric utility shall provide information to the customer in English and Spanish as necessary to make the preceding boldface language understandable to the customer;
 - (B) may include a 5.0% penalty 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 state the specific amount of each installment;
 - (F) shall allow the electric utility to disconnect service if the customer does not fulfill the terms of the deferred payment plan, and shall state the terms for disconnection;
 - (G) shall not refuse a customer participation in such a program on the basis of race, color, sex, nationality, religion, or marital status;
 - (H) shall be signed by the customer and a copy of the signed plan must be provided to the customer. If the agreement is made over the telephone, then the electric utility shall send a copy of the plan to the customer for signature; and
 - (I) shall allow either the customer or the electric utility 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.

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- (5) An electric utility may disconnect a customer who does not meet the terms of a deferred payment plan. However, the electric utility may not disconnect service until a disconnection notice has been issued to the customer indicating that the customer has not met the terms of the plan. The notice and disconnection shall conform with the disconnection rules in §25.29 of this title. The electric utility may renegotiate the deferred payment plan agreement prior to disconnection. If the customer did not sign the deferred payment plan, and is not otherwise fulfilling the terms of the plan, and the customer was previously provided a disconnection notice for the outstanding amount, no additional disconnection notice shall be required.