

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.113. Municipal Registration of Retail Electric Providers (REPs).

- (a) **Applicability.** This section applies to municipalities that require retail electric providers (REPs) to register in accordance with the Public Utility Regulatory Act (PURA) §39.358 and to all REPs with a certificate granted by the commission pursuant to PURA §39.352(a) and §25.107 of this title (relating to Certification of Retail Electric Providers).
- (b) **Purpose.** A municipality may require a REP to register as a condition of serving residents of the municipality, in accordance with PURA §39.358. This section establishes an optional "safe-harbor" process for municipal registration of REPs to standardize notice and filing procedures, deadlines, and registration information and fees. The "safe-harbor" registration process simplifies and provides certainty to both municipalities and REPs, thereby facilitating the development of a competitive retail electric market in Texas. If a municipality enacts a registration ordinance that is consistent with this section, the ordinance shall be deemed to comply with PURA §39.358. A municipality may exercise its authority under PURA §39.358 and adopt an ordinance that is not consistent with this section; however, such ordinance could be subject to an appeal to the commission under PURA §32.001(b).
- (c) **Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:
 - (1) **Resident** — Any electric customer located within the municipality, except the municipality itself, regardless of customer class.
 - (2) **Revocation** — The cessation of all REP business operations within a municipality, pursuant to municipal order.
 - (3) **Suspension** — The cessation of all REP business operations within a municipality associated with obtaining new customers, pursuant to municipal order.
- (d) **Non-discrimination in REP registration requirements.** A municipality shall not establish registration requirements that are different for any REP or type of REP or that impose any disadvantage or confer any preference on any REP or type of REP. However, a municipality may exclude from its registration requirement a REP that provides service only to the municipality's own electric accounts and not to any residents of the municipality.
- (e) **Notice.** A municipality that enacts an ordinance adopting the standard registration process under this section shall file only the ordinance or section of ordinance, including the effective date, with the commission at least 30 days before the effective date of the ordinance. The filing shall not exceed ten pages. The filing of such a municipality's ordinance in accordance with §22.71 of this title (relating to Filing of Pleadings, Documents, and Other Materials) shall serve as notice to all REPs of the requirement to submit a registration to the municipality.
- (f) **Standards for registration of REPs.** A municipality that adopts a "safe-harbor" ordinance in accordance with this section shall process a REP's registration request as follows:
 - (1) A REP shall register with a municipality that adopts an ordinance in accordance with this section within 30 days after the ordinance requiring registration becomes effective or 30 days after providing retail electric service to any resident of the municipality, whichever is later.
 - (2) A REP shall register with a municipality that adopts an ordinance in accordance with this section by completing a form approved by the commission, and signed by an owner, partner, officer, or other authorized representative of the registering REP. Forms may be submitted to a municipality by mail, facsimile, or online where online registration is available. Registration forms may be obtained from the commission's Central Records division during normal business hours, or from the commission's website.

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- (3) The municipality shall review the REP's submitted form for completeness, including the remittance of the registration fee. Within 15 business days of receipt of an incomplete registration, the municipality shall notify the registering REP in writing of the deficiencies in the registration. The registering REP shall have 20 business days from the issuance of the notification to cure the deficiencies. If the deficiencies are not cured within 20 business days, the municipality shall immediately send a rejection notice to the registering REP that the registration is rejected without prejudice. Absent such notification of rejection, the registration shall be deemed to have been accepted.
 - (4) A municipality shall not deny a REP's request for registration based upon investigations into the fitness or capability of a REP that has a current certificate from the commission.
 - (5) A municipality shall not require a REP to undergo a hearing before the municipality for the purposes of registration, nor require the REP to send a representative to the municipality for purposes of processing the registration form.
- (g) **Information.** A municipality may require a REP to provide only the information set forth below. A REP shall provide all of the following information on the commission's prescribed form to a municipality that has adopted a "safe-harbor" ordinance under this section:
- (1) The legal name(s) of the retail electric provider and all trade or commercial names;
 - (2) The registering REP's certificate number, as approved under §25.107 of this title and the docket number under which the certification was granted by the commission;
 - (3) The Texas business address, mailing address, and principal place of business of the registering REP. The business address provided shall be a physical address that is not a post office box;
 - (4) The 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;
 - (5) Toll-free telephone number for the customer service department or the name, title and telephone number of the customer service contact person;
 - (6) The types of electric customer classes that the REP intends to serve within the municipality; and
 - (7) The location of each office maintained by the registering REP within the municipal boundaries, including postal address, physical address, telephone number, hours of operation, and listing of the services available through each office.
- (h) **Registration fees.** A municipality adopting the "safe-harbor" registration process may require REPs to pay a reasonable administrative fee for the purpose of registration only.
- (1) A one-time registration fee of not more than \$25 shall be deemed reasonable.
 - (2) A municipality may require a REP to pay a one-time late fee, which shall not exceed \$15, only if the REP fails to register within 30 days after the ordinance requiring registration becomes effective or 30 days after providing retail electric service to any resident of the municipality, whichever is later.
- (i) **Post-registration requirements and re-registration.**
- (1) A REP shall notify municipalities adopting the "safe-harbor" registration within 30 days of any change in information provided in its registration. In addition, a REP shall notify a municipality within ten days if it discontinues offering service to residents of the municipality.
 - (2) A municipality shall not require REPs to file periodic reports regarding complaints, or any other matter, as part of the registration process.
 - (3) A municipality shall not require a periodic re-registration process or fee.

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- (4) A municipality shall not require a REP to re-register unless a REP's registration is revoked and the REP subsequently cures its defects and resumes operations. In that circumstance, the REP may register in the same manner as a new REP.
- (j) **Suspension and revocation.** A municipality may suspend or revoke a REP's registration and authority to operate within the municipality only upon a commission finding that the REP has committed significant violations of PURA Chapter 39 or rules adopted under that chapter. A municipality shall not suspend or revoke the registration of the affiliated REP or provider of last resort (POLR) serving residents in the municipality. A municipality shall not take any action against a REP other than suspension or revocation of a REP's registration and authority to operate in the municipality, or imposition of a late fee in accordance with subsection (h)(2) of this section.
- (1) A municipality may provide a REP with a warning prior to seeking to suspend or revoke a REP's registration.
 - (2) A municipality seeking to suspend or revoke a REP's registration shall provide the REP with at least 30 calendar days written notice, informing the REP that its registration and authority to operate shall be suspended or revoked. The notice shall specify the reason(s) for such suspension or revocation.
 - (3) A municipality may order that the REP's registration be suspended or revoked only after the notice period has expired.
 - (4) In its suspension order, a municipality shall specify the reasons for the suspension and provide a date certain or provide conditions that a REP must satisfy to cure the suspension. Once the suspension period has expired or the reasons for the suspension have been rectified, the suspension shall be lifted.
 - (5) In its revocation order, a municipality shall specify the reasons for the revocation.
 - (6) A REP may appeal a municipality's suspension or revocation order to the commission.