

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter Q. SYSTEM BENEFIT FUND.

§25.451. Administration of the System Benefit Fund.

- (a) **Purpose.** The purpose of this section is to implement the system benefit fund, including its administration, setting its revenue requirement, fee collection, reporting procedures, and review and approval of the fund pursuant to the Public Utility Regulatory Act (PURA) §39.903.
- (b) **Application.** This subchapter applies to retail electric providers (REPs), and transmission and distribution utilities (TDUs) in an area where customer choice has been implemented, or an area for which the commission has issued an order applying the system benefit fund or rate reduction. This section applies to municipally owned electric utilities (MOUs) and electric cooperatives (Coops) no sooner than six months preceding the date on which an MOU or a Coop implements customer choice in its certificated service area.
- (c) **Definitions.** The following words and terms when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise.
- (1) **Fiscal year** — The State of Texas fiscal year, beginning September 1 of one calendar year, and ending on August 31 of the subsequent calendar year.
 - (2) **System Benefit Fund** — A fund with the Texas Comptroller of Public Accounts (Comptroller) to be administered by the commission, into which all fee collections are deposited and from which all disbursements of the fund are withdrawn.
 - (3) **System benefit fee** — A nonbypassable fee set by the commission to finance the System Benefit Fund. The fee shall be charged to electric retail customers based on the amount of kilowatt hours (kWh) of electric energy used, as measured at the meter and adjusted for voltage level losses.
- (d) **System benefit fee.** The commission shall set the amount of the system benefit fee for the next fiscal year at or before the last open meeting scheduled for July of each year.
- (1) The amount of the fee shall be based on the total revenue requirement as determined in subsection (e) of this section and the projected retail sales of electricity in megawatt hours (MWh) in the state as determined in subsection (f) of this section.
 - (2) The commission may, at any time during the fiscal year, review the revenues, fund balance, and projected disbursements, revise the system benefit fee amount, and issue an order for the remainder of the year to accomplish the purposes of PURA §39.903. The TDUs shall implement the new fee in billings to the REPs within 30 calendar days of the date such order is issued. Whenever the fee is changed, the TDUs shall file with the commission an updated rate schedule for inclusion in the TDU's tariff manual, reflecting the new fee.
 - (3) The average fee may not exceed \$0.65 per MWh.
- (e) **Revenue requirement.** The revenue requirement shall be an amount of revenue necessary to fund the purposes outlined in PURA §39.903 consistent with legislative appropriations and expected fund revenue, operating costs of the Rate Reduction Program and other obligations of the fund, a necessary fund reserve balance, and any other purpose required by statute or legislative appropriations.
- (f) **Electric sales estimate.** The TDUs, and when applicable, the MOUs and Coops, upon request by the commission, shall provide information on total retail electric sales in their service areas for the preceding calendar year, by April 1 of each year.

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- (g) **Remittance of fees.** Each TDU, MOU, or Coop collecting the system benefit fee from the REPs, MOUs, or Coops in its service area, shall remit the fees to the Comptroller on a monthly basis.
- (1) Remittance of funds to the Comptroller shall comply with the Comptroller's rules governing payments and the method for making them.
 - (2) The collecting utility shall account for all system benefit fees received from the REPs, MOUs, or Coops in its service area separately from any other account in its records.
 - (3) Each TDU, MOU, or Coop collecting and remitting the system benefit fee to the Comptroller shall file with the commission at the time the money is remitted a report, on a commission-prescribed form, stating for each service territory the amount of the system benefit fee billed, the amount remitted to the Comptroller, and electric energy sold, in MWh. The report shall contain monthly amounts and year-to-date totals.
- (h) **Billing requirements.** A TDU, an MOU, or a Coop shall send billing statements to the REPs indicating the amount of system benefit fee owed for the specified period. The billing and payments between the TDU and the REPs shall be governed by §25.214 of this title (relating to Terms and Conditions of Retail Distribution Service Provided by Investor Owned Transmission and Distribution Utilities), and between MOUs and Coops and the REPs by §25.215 of this title (relating to Terms and Conditions of Retail Distribution Service Provided by MOUs and Coops).
- (1) The REP shall remit to the TDU, an MOU, or a Coop an amount equal to the kWh of electric energy consumed by its customers in the utility's service area times the fee approved by the commission for that period.
 - (2) For those retail customers who switch to on-site generation pursuant to PURA §39.262(k), the system benefit fee shall be based on the amount of actual power delivered to them by a TDU.
- (i) **Reporting and auditing requirements.** Each REP, and each MOU or Coop when applicable, providing rate reductions or one-time bill payment assistance to eligible customers shall keep records of such rate reductions and one-time bill payment assistance for at least three years from the date the rate reduction or one-time bill payment assistance is first provided to a customer to permit the commission or its agent to audit rate reduction and one-time bill payment assistance reimbursements. Reports filed under subsections (g) and (j) of this section and records relating to the identification of eligible customers shall also be subject to audit upon commission request.
- (j) **Reimbursement for rate reductions and one-time bill payment assistance.** Each REP, or MOU or Coop, when applicable, shall submit to the commission a monthly activity report and request for reimbursement on a form prescribed by the commission. The commission's goal for the processing of a request for reimbursement is, not later than five business days after receipt of the monthly report, to prepare and deliver to the comptroller an authorization for reimbursement to the REP, MOU, or Coop. The Comptroller's goal for the processing of payments is to transfer the funds by the close of the next business day, following receipt of an authorization from the commission. The monthly activity report submitted by the REPs, MOUs, or Coops shall contain the following:
- (1) The number of low-income customers that were provided rate discounts during the reporting period;
 - (2) The amount of reimbursement requested;
 - (3) The aggregate electric energy consumption in kWh for all low-income customers enrolled in the rate reduction program for the reporting period;
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- (4) The total amount of rate reductions provided to the low-income customers in the reporting period; and

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- (5) The total amount of one-time bill payment assistance provided to customers in the reporting period and the number of customers to which assistance was provided, pursuant to §25.455 of this title (relating to One-Time Bill Payment Assistance Program), as well as pertinent customer information required by the commission-prescribed form.

- (k) **Transfer of funds to other state agencies.** Payment transfers to other state agencies pursuant to this rule shall be governed by statute, the Appropriations Act, and any procedures established by the Comptroller.