

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter R. CUSTOMER PROTECTION RULES FOR RETAIL ELECTRIC SERVICE.

§25.472. Privacy of Customer Information.

- (a) **Mass customer lists.** Prior to the commencement of retail competition, an electric utility shall release a mass customer list to certificated retail electric providers (REPs) and registered aggregators.
- (1) A mass customer list shall consist of the name, billing address, rate classification, monthly kilowatt-hour usage for the most recent 12-month period, meter type, and account number or electric service identifier (ESI-ID). All customers eligible for the price to beat pursuant to the Public Utility Regulatory Act (PURA) §39.202 shall be included on the mass customer list, except a customer who opts not to be included on the list pursuant to paragraph (2) of this subsection.
 - (2) Prior to the release of a mass customer list, an electric utility shall mail a notice to all customers who may be included on the list. The notice shall:
 - (A) explain the issuance of the mass customer list;
 - (B) provide the customer with the option of not being included on the list and allow the customer at least 30 days to exercise that option;
 - (C) inform the customer of the availability of the no call lists pursuant to §25.484 of this title (relating to Texas Electric No-Call List) and §26.37 of this title (relating to Texas No-Call List), and provide the customer with information on how to request placement on the list;
 - (D) provide a toll free telephone number and an Internet website address to notify the electric utility of the customer's desire to be excluded from the mass customer list.
 - (3) The commission will require the electric utility to release a mass customer list no later than 120 days before the commencement of customer choice.
 - (4) The mass customer list shall be issued, at no charge, to all REPs certified by, and aggregators registered with, the commission that will be providing retail electric or aggregation services to residential or small commercial customers.
 - (5) A REP shall not use the list for any purpose other than marketing electric service and verifying a customer's authorized selection of a REP prior to submission of the customer's enrollment to the registration agent.
- (b) **Individual customer and premise information.**
- (1) A REP or aggregator shall not release proprietary customer information, as defined in §25.272(c)(5) of this title (relating to Code of Conduct for Electric Utilities and Their Affiliates), to any other person, including an affiliate of the REP, without obtaining the customer's or applicant's verifiable authorization by means of one of the methods authorized in §25.474 of this title (relating to Selection of Retail Electric Provider). This prohibition shall not apply to the release of such information by a REP or aggregator to:
 - (A) the commission in pursuit of its regulatory oversight or the investigation and resolution of customer complaints involving REPs or aggregators;
 - (B) an agent, vendor, partner, or affiliate of the REP or aggregator engaged to perform any services for or functions on behalf of the REP or aggregator, including marketing of the REP's or aggregator's own products or services, or products or services offered pursuant to joint agreements between the REP or aggregator and a third party;
 - (i) All such agents, vendors, partners, or affiliates of the REP or aggregator shall be required to sign a confidentiality agreement with the REP or aggregator and agree to be held to the same confidentiality standards as the REP or aggregator pursuant to this section; and
 - (ii) In the event that a REP shares proprietary customer information with a third party for the purpose of marketing such party's products or services to the REP's customer, prior to the release of information to any such agent, partner or affiliate, a REP or aggregator shall provide the customer

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an opportunity to opt-out of the release of their information for such marketing purposes by either of the following methods:

- (I) send a notice to customers explaining the issuance of the each information release and the reason for the information release and provide the customer with the option of not being included in the information release and allow the customer at least 30 days to exercise that option; or
 - (II) include an opportunity for the customer to make a choice as to whether or not the customer wants to be included in all future marketing of other products and services by the REP or its agent, partner, or affiliate. Such opportunity may be provided during the authorization and verification process detailed in §25.474 or via a separate notice and mailing to customers.
- (C) a consumer reporting agency as defined by the Federal Trade Commission;
 - (D) an energy assistance agency to allow a customer or an applicant to qualify for and obtain other financial assistance provided by the agency. A REP may rely on the representations of an entity claiming to provide energy assistance;
 - (E) local, state, and federal law enforcement agencies;
 - (F) the transmission and distribution utility (TDU) within whose geographic service territory the customer or applicant is located, pursuant to the provisions of the TDU's commission-approved Tariff for Retail Electric Delivery Service;
 - (G) the Office of the Public Utility Counsel, upon request pursuant to PURA §39.101(d);
 - (H) conduct activities required by subsection (a) of this section;
 - (I) the registration agent, another REP, a provider of last resort (POLR), or TDU as necessary to complete a required market transaction, under terms approved by the commission; or
 - (J) the registration agent or a TDU in order to effectuate a customer's move-in, transfer, or switch.
- (2) Under no circumstances shall a REP or aggregator sell, make available for sale, or authorize the sale of any customer-specific information or data obtained.
 - (3) Upon receiving authorization from a customer or applicant, a REP shall request from the TDU the monthly usage of the customer's or applicant's premise for the previous 12 months. The TDU, upon receipt of a written request or other proof of authorization, shall provide the requested information to the requesting REP or to the customer or applicant no later than three business days after the request or proof of authorization is submitted.
 - (4) A REP shall, upon the request of an energy assistance agency, provide a 12-month billing history free of charge that includes both usage data and the dollar amount of each monthly billing. If 12 months of billing data are not available from the REP, the REP shall estimate the amount billed using the REP's residential rate. The history shall also clearly designate estimated amounts. A residential billing history requested by an energy assistance agency shall be provided by the end of the next business day after the request is made. A residential billing history requested by a customer shall be provided within five business days of the customer request.
 - (5) Upon the request of a customer, a REP shall notify a third person chosen by the customer of any pending disconnection of electric service with respect to the customer's account.