

PROJECT NO. 33025

**RULEMAKING TO AMEND § PUBLIC UTILITY COMMISSION
COMMISSION SUBSTANTIVE RULES §
CONSISTENT WITH §25.43, PROVIDER § OF TEXAS
OF LAST RESORT (POLR) §**

PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §§25.5, 25.472, 25.473, 25.474, 25.475, 25.478, 25.480, 25.481, 25.483, 25.485, 25.488, 25.491, 25.493 AND REPEAL OF §25.482 AS APPROVED AT THE OCTOBER 26, 2006 OPEN MEETING

The Public Utility Commission of Texas (commission) proposes amendments to §25.5, relating to Definitions, §25.472, relating to Privacy of Customer Information, §25.473, relating to Non-English Language Requirements, §25.474, relating to Selection of Retail Electric Provider, §25.475, relating to Information Disclosures to Residential and Small Commercial Customers, §25.478, relating to Credit Requirements and Deposits, §25.480, relating to Bill Payment and Adjustments, §25.481, relating to Unauthorized Charges, §25.483, relating to Disconnection of Service, §25.485, relating to Customer Access and Complaint Handling, §25.488, Procedures for a Premise with No Service Agreement, §25.491, Record Retention and Reporting Requirements, and §25.493, Acquisition and Transfer of Customers from One Retail Electric Provider to Another and the repeal of §25.482, relating to Termination of Service. The proposed amendments and repeal change or eliminate these sections to comport with the provisions outlined in §25.43, Provider of Last Resort (POLR), which detail when a customer may receive or be placed on POLR service. This rule is a competition rule subject to judicial review as specified in PURA §39.001(e). Project Number 33025 is assigned to this proceeding.

Erin K. Wasik-Gutierrez, Retail Market Analyst, Retail Market Oversight Section, Electric Industry Oversight 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. Wasik-Gutierrez has 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 clarity and consistency throughout the Substantive Rules in regard to POLR service. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing these sections. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Ms. Wasik-Gutierrez has also 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 the Administrative Procedure Act (APA), Texas Government Code §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 Monday, December 11, 2006, at 9:00 a.m. The request for a public hearing must be received within 21 days after publication.

Comments on the proposed amendments and/or repeal may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin,

Texas 78711-3326, within 21 days after publication. Sixteen copies of comments to the proposed amendments and/or repeal are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted within 31 days after publication. Comments should be organized in a manner consistent with the organization of the proposed amendments and/or repeal. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendments and/or repeal. The commission will consider the costs and benefits in deciding whether to adopt the proposed amendments and/or repeal. All comments should refer to Project Number 33025. The commission will also accept comments on the following question:

Is there any other language in the Substantive Rules not identified herein that needs to be amended so that it comports with §25.43, POLR? If so, please suggest how the language should be amended.

These amendments and repeal are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2006) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and, in particular, §17.004 and §39.101, which direct the commission to implement customer protections for electric customers, and §39.106, which directs the commission to designate providers of last resort.

Cross Reference to Statutes: Public Utility Regulatory Act <*><*>14.002, 17.004, 39.101 and 39.106.

§25.5. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) – (89) (No change.)

(90) **Provider of last resort (POLR)** — A retail electric provider (REP) certified in Texas that has been designated by the commission to provide a basic, standard retail service package in accordance with §25.43 of this title (relating to Provider of Last Resort (POLR)) ~~to customers that are not being served by a REP for reasons other than non-payment.~~

(91) – (144) (No change.)

§25.472. Privacy of Customer Information.

(a) (No change.)

(b) **Individual customer and premise information.**

(1) – (4) (No change.)

(5) Upon the request of a customer, a REP shall notify a third person chosen by the customer of any pending disconnection ~~or termination~~ of electric service with respect to the customer's account.

~~(c) — This section is effective June 1, 2004.~~

§25.473. Non-English Language Requirements.

(a) – (c) (No change.)

(d) **Dual language requirement.** The following documents shall be provided to all customers in both English and Spanish, unless a customer has designated a language other than English or Spanish as the language in which they will receive the information described in subsection (b) of this section, in which case the documents described in paragraphs (1) and (3) of this subsection shall be provided in English and the other language designated by the customer.

(1) – (2) (No change.)

(3) a disconnection ~~or termination~~-notice.

(e) (No change.)

~~(f) — This section is effective June 1, 2004.~~

§25.474. Selection of Retail Electric Provider.

(a) – (l) (No change.)

(m) **Exemptions for certain transfers.** The provisions of this section relating to authorization and right of rescission are not applicable when the applicant's or customer's electric service is:

~~(1) transferred to the affiliated REP by a REP for non-payment pursuant to §25.482 of this title (relating to Termination of Service);~~

~~(1)(2)~~ transferred to the POLR pursuant to §25.43 of this title (relating to Provider of Last Resort (POLR)) when the customer's REP of record defaults or otherwise ceases to provide service. Nothing in this subsection implies that the customer is accepting a contract with the POLR for a specific term;

~~(2)(3)~~ transferred to the competitive affiliate of the POLR pursuant to §25.43(o) of this title;

~~(3)(4)~~ transferred to another REP in accordance with section §25.493 of this title (relating to Acquisition and Transfer of Customers from One Retail Electric Provider to Another); or

~~(4)(5)~~ transferred from one premise to another premise without a change in REP and without a material change in the terms of service.

(n) (No change.)

(o) ~~This section is effective on August 1, 2004.~~

§25.475. Information Disclosures to Residential and Small Commercial Customers.

(a) – (c) (No change.)

(d) **Terms of service document.**

(1) – (4) (No change.)

(5) The following information shall be conspicuously contained in the terms of service document:

(A) – (K) (No change.)

(L) A statement informing the customer that the REP cannot deny service or require a prepayment or deposit for service based on a customer's race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability, familial status, location of a customer in a economically distressed geographic area, or qualification for low income or energy efficiency services; ~~and~~

(M) A description of any collection fees or costs that may be assessed to the customer by the REP and that cannot be quantified in the terms of service document; ~~and-~~

(N) A statement of customer's ability to terminate service in the event:

(i) The customer moves to another premises;

(ii) Market conditions change and the terms of service document allows the REP to terminate service without penalty in response to changing market conditions; or

(iii) A REP notifies the customer of a material change in the terms and conditions of the service agreement.

(e) – (f) (No change.)

(g) **Your Rights as a Customer disclosure.** In addition to the terms of service document required by this section, a REP shall develop a separate disclosure statement for residential customers and small commercial customers entitled "Your Rights as a Customer" that summarizes the standard customer protections provided by the rules in this subchapter.

(1) – (3) (No change.)

(4) The disclosure shall inform the customer of the following:

(A) – (H) (No change.)

(I) Protections relating to ~~termination of service protections pursuant to §25.482 of this title (relating to Termination of Service) and~~ disconnection of service pursuant to §25.483 of this title (relating to Disconnection of Service);

(J) – (Q) (No change.)

~~(h) — This section is effective June 1, 2004.~~

§25.478. Credit Requirements and Deposits.

(a) – (c) (No change.)

(d) **Additional deposits by existing customers.**

(1) – (2) (No change.)

(3) A REP may ~~terminate or~~ disconnect service if the additional deposit is not paid within ten days of the request, provided a written disconnection notice has been issued to the customer. A disconnection notice may be combined with or issued concurrently with the written request for the additional deposit. The disconnection notice shall comply with the requirements in §25.483(m) of this title.

(e) – (h) (No change.)

(i) **Guarantees of residential customer accounts.** A guarantee agreement in lieu of a cash deposit issued by any REP, if applicable, shall conform to the following requirements:

(1) – (5) (No change.)

(6) The REP may initiate ~~disconnection~~termination of the guarantor's service (or disconnection of service for the POLR, or any REP having disconnect authority) for nonpayment of the guaranteed amount only if the disconnection of service~~termination of service (or, where applicable, the disconnection of service)~~ was disclosed in the written guarantee agreement, and only after proper notice as described by paragraph (5) of this subsection ~~and §25.482 of this title (relating to Termination of Service)~~ or §25.483 of this title.

(j) **Refunding deposits and voiding letters of guarantee.**

(1) – (2) (No change.)

(3) If a customer's or applicant's service is not connected, or is ~~terminated~~ or disconnected, the REP shall promptly void and return to the guarantor all letters of guarantee on the account or provide written documentation that the guarantee agreement has been voided, or refund the customer's or applicant's deposit plus accrued interest on the balance, if any, in excess of the unpaid bills for service furnished. Similarly, if the guarantor's service is not connected, ~~or is terminated~~ or is disconnected, the REP shall promptly void and return to the guarantor all letters of guarantee or provide written documentation that the guarantees have been voided. This provision does not apply when the customer or guarantor moves or changes the address where service is provided, as long as the customer or guarantor remains a customer of the REP.

(4) (No change.)

(k) – (l) (No change.)

§25.480. Bill Payment and Adjustments.

(a) – (d) (No change.)

(e) **Underbilling by a REP.** If charges are found to be lower than authorized by the REP's terms and conditions of service, or if the REP fails to bill the customer for service, then the customer's bill may be corrected.

(1) (No change.)

(2) The REP may ~~terminate service pursuant to §25.482 of this title (relating to Termination of Service) or~~ disconnect service ~~pursuant to~~ pursuant to §25.483 of this title (relating to Disconnection of Service) if the customer fails to pay the additional charges within a reasonable time.

(3) – (5) (No change.)

(f) – (h) (No change.)

(i) **Payment arrangements.** A payment arrangement is any agreement between the REP 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 REP issues a ~~termination or~~ disconnection notice before a payment arrangement was made, that ~~termination or~~ disconnection should be suspended until after the due date for the payment arrangement. If a customer does not fulfill the terms of the payment arrangement, service may be ~~terminated or~~ disconnected after the later of the due date for the payment arrangement or the ~~termination or~~ disconnection date indicated in the notice, without issuing an additional disconnection notice.

(j) **Deferred payment plans.** A deferred payment plan is an agreement between the REP and a customer that allows a customer to pay an outstanding bill in installments that

extend beyond the due date of the current bill. A deferred payment plan may be established in person or by telephone, but all deferred payment plans shall be confirmed in writing by the REP.

(1) – (5) (No change.)

(6) A copy of the deferred payment plan shall be provided to the customer and:

(A) – (E) (No change.)

(F) shall allow for the ~~termination or~~ disconnection of service (as appropriate) if the customer does not fulfill the terms of the deferred payment plan, and shall state the terms for disconnection ~~or termination of service~~; and

(G) (No change.)

(7) A REP may pursue ~~termination or~~ disconnection of service if a customer does not meet the terms of a deferred payment plan. However, service shall not be ~~terminated or~~ disconnected until appropriate notice has been issued, pursuant to §25.483 of this title ~~or §25.482 of this title~~, notifying the customer that the customer has not met the terms of the plan. The requirements of subsection (j)(3) of this section shall not apply with respect to a customer who has received notice of a ~~termination or~~ disconnection due to failure to meet the terms of a deferred payment plan.

(k) **Allocation of partial payments.** A REP shall allocate a partial payment by the customer first to the oldest balance due for electric service, followed by the current amount due for electric service. When there is no longer a balance for electric service, payment may be applied to non-electric services billed by the REP. Electric service shall not be ~~terminated or~~ disconnected for non-payment of non-electric services.

~~(1) This section is effective June 1, 2004.~~

§25.481. Unauthorized Charges.

(a) – (b) (No change.)

(c) **Responsibilities for unauthorized charges.**

(1) (No change.)

(2) A REP shall not:

(A) seek to ~~terminate or~~ disconnect electric service to any customer for nonpayment of an unauthorized charge;

(B) – (C) (No change.)

(3) – (4) (No change.)

(d) – (e) (No change.)

~~(f) — This section is effective June 1, 2004.~~

§25.482. Termination of Service (repeal)

§25.483. Disconnection of Service.

- (a) **Disconnection and reconnection policy.** Only a transmission and distribution utility (TDU), municipally owned utility, or electric cooperative shall perform physical disconnections and reconnections. Unless otherwise stated, it is the responsibility of a retail electric provider (REP) to request such action from the appropriate TDU, municipally owned utility, or electric cooperative in accordance with that entity's relevant tariffs, in accordance with the protocols established by the registration agent, and in compliance with the requirements of this section. If a REP chooses to have a customer's electric service disconnected, it shall comply with the requirements in this section. Nothing in this section requires a REP to request that a customer's service be disconnected.
- (b) **Disconnection authority.**
- (1) Any REP may authorize the disconnection of a medium non-residential or large non-residential customer, as that term is defined in §25.43 of this title (relating to Provider of Last Resort (POLR)), unless the customer is receiving service under a contract entered into prior to September 24, 2002, the original term of which has not expired and the contract makes no provision for waiver of the customer's right to be transferred to the POLR for non-payment.
 - (2) ~~Except until June 1, 2004, and except~~ as provided in subsection (d) of this section, ~~only the affiliated REP or the POLR may authorize disconnection of residential and small non-residential customers, as those terms are defined in §25.43 of this title.~~ All REPs shall have ~~such~~ authority to authorize the disconnection of customers pursuant to Commission rules. Prior as of June 1, 2004, provided that

~~prior~~ to authorizing disconnections for non-payment in accordance with this subchapter, a REP shall:

- (A) (No change.)
- (B) inform customers in the Terms of Service Document of the REP's authority to order the disconnection of customers for non-payment; and
~~except for the affiliated REP and POLR, send a notice to each retail customer stating the following: "As of June 1, 2004, the Public Utility Commission of Texas (commission) will allow (REP) to request disconnection of your service if you do not pay your electric bill by the final due date. If you have any questions about this change in policy, please call (REP's toll free phone number);" and~~
- (C) (No change.)

(c) – (f) (No change.)

~~(g) — **Disconnection due to abandonment by the POLR.** A POLR shall not abandon a customer or a service area without written notice to its customers and approval from the commission, in accordance with §25.43 of this title.~~

~~(g)(h)~~ **Disconnection of ill and disabled.** A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for nonpayment of electric service at a permanent, individually metered dwelling unit of a delinquent customer when that customer establishes that disconnection of service will cause some person residing at that residence to become seriously ill or more seriously ill.

- (1) Each time a customer seeks to avoid disconnection of service under this subsection, the customer shall accomplish all of the following by the stated date of disconnection:
 - (A) Have the person's attending physician (for purposes of this subsection, the "physician" shall mean any public health official, including medical doctors, doctors of osteopathy, nurse practitioners, registered nurses, and any other similar public health official) call or contact the REP by the stated date of disconnection;
 - (B) Have the person's attending physician submit a written statement to the REP; and
 - (C) Enter into a deferred payment plan.
- (2) The prohibition against service disconnection provided by this subsection shall last 63 days from the issuance of the bill for electric service or a shorter period agreed upon by the REP and the customer or physician.
- (3) If, in the normal performance of its duties, a TDU obtains information that a customer scheduled for disconnection may qualify for delay of disconnection pursuant to this subsection, and the TDU reasonably believes that the information may be unknown to the REP, the TDU shall delay the disconnection and promptly communicate the information to the REP. The TDU shall disconnect such customer if it subsequently receives a confirmation of the disconnect notice from the REP. Nothing herein should be interpreted as requiring a TDU to assess or to inquire as to the customer's status before performing a disconnection, or to provide prior notice of the disconnection, when not otherwise required.

(h)⊕ Disconnection of energy assistance clients.

- (1) A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for nonpayment of electric service to a delinquent residential customer for a billing period in which the REP receives a pledge, letter of intent, purchase order, or other notification that the energy assistance provider is forwarding sufficient payment to continue service provided that such pledge, letter of intent, purchase order, or other notification is received by the due date stated on the disconnection notice, and the customer, by the due date on the disconnection notice, either pays or makes payment arrangements to pay any outstanding debt not covered by the energy assistance provider.
- (2) If an energy assistance provider has requested monthly usage data pursuant to §25.472(b)(4) of this title (relating to Privacy of Customer Information), the REP shall extend the final due date on the disconnection notice, day for day, from the date the usage data was requested until it is provided.
- (3) A REP shall allow at least 45 days for an energy assistance provider to honor a pledge, letter of intent, purchase order, or other notification before submitting the disconnection request to the TDU.
- (4) A REP may request disconnection of service to a customer if payment from the energy assistance provider's pledge is not received within the time frame agreed to by the REP and the energy assistance provider, or if the customer fails to pay any portion of the outstanding balance not covered by the pledge.

(i)⊕ Disconnection during extreme weather. A REP having disconnection authority under the provisions of subsection (b) of this section shall not authorize a disconnection for

nonpayment of electric service for any customer in a county in which an extreme weather emergency occurs. A REP shall offer residential customers a deferred payment plan upon request by the customer that complies with the requirements of §25.480 of this title (relating to Bill Payment and Adjustments) for bills that become due during the weather emergency.

- (1) The term "extreme weather emergency" shall mean a day when:
 - (A) the previous day's highest temperature did not exceed 32 degrees Fahrenheit, and the temperature is predicted to remain at or below that level for the next 24 hours anywhere in the county, according to the nearest National Weather Service (NWS) reports; or
 - (B) the NWS issues a heat advisory for a county, or when such advisory has been issued on any one of the preceding two calendar days in a county.
- (2) A TDU shall notify the commission of an extreme weather emergency in a method prescribed by the commission, on each day that the TDU has determined that an extreme weather emergency has been issued for a county in its service area. The initial notice shall include the county in which the extreme weather emergency occurred and the name and telephone number of the utility contact person.

~~(j)(4)~~ **Disconnection of master-metered apartments.** When a bill for electric service is delinquent for a master-metered apartment complex:

- (1) The REP having disconnection authority under the provisions of subsection (b) of this section shall send a notice to the customer as required by subsection ~~(k)(4)~~ of this section. At the time such notice is issued, the REP, or its agents, shall also inform the customer that notice of possible disconnection will be provided to the

tenants of the apartment complex in six days if payment is not made before that time.

- (2) At least six days after providing notice to the customer and at least four days before disconnecting, the REP shall post a minimum of five notices in English and Spanish in conspicuous areas in the corridors or other public places of the apartment complex. Language in the notice shall be in large type and shall read: "Notice to residents of (name and address of apartment complex): Electric service to this apartment complex is scheduled for disconnection on (date), because (reason for disconnection)."

~~(k)~~⊕ **Disconnection notices.** A disconnection notice for nonpayment shall:

- (1) not be issued before the first day after the bill is due;
- (2) be a separate mailing or hand delivered notice with a stated date of disconnection with the words "disconnection notice" or similar language prominently displayed. The REP may send the disconnection notice concurrently with the request for a deposit;
- (3) have a disconnection date that is not a holiday, weekend day, or day that the REP's personnel are not available to take payments, and is not less than ten days after the notice is issued;
- (4) include a statement notifying the customer that if the customer needs assistance paying the bill by the due date, or is ill and unable to pay the bill, the customer may be able to make some alternate payment arrangement, establish a deferred payment plan, or possibly secure payment assistance. The notice shall also advise the customer to contact the provider for more information.

~~(1)(m)~~ **Contents of disconnection notice.** Any disconnection notice shall include the following information:

- (1) The reason for disconnection;
- (2) The actions, if any, that the customer may take to avoid disconnection of service;
- (3) The amount of all fees or charges which will be assessed against the customer as a result of the default;
- (4) The amount overdue;
- (5) A toll-free telephone number that the customer can use to contact the REP to discuss the notice of disconnection or to file a complaint with the REP, and the following statement: "If you are not satisfied with our response to your inquiry or complaint, you may file a complaint by calling or writing the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas, 78711-3326; Telephone: (512) 936-7120 or toll-free in Texas at (888) 782-8477. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. Complaints may also be filed electronically at www.puc.state.tx.us/ocp/complaints/complain.cfm;"
- (6) If a deposit is being held by the REP on behalf of the customer, a statement that the deposit will be applied against the final bill (if applicable) and the remaining deposit will be either returned to the customer or transferred to the new REP, at the customer's designation and with the consent of both REPs;
- (7) The availability of deferred payment or other billing arrangements, from the REP, and the availability of any state or federal energy assistance programs and information on how to get further information about those programs; and

- (8) A description of the activities that the REP will use to collect payment, including the use of consumer reporting agencies, debt collection agencies, small claims court, and other remedies allowed by law, if the customer does not pay or make acceptable payment arrangements with the REP.

~~(m)(n)~~ **Reconnection of service.** Upon a customer's satisfactory correction of the reasons for disconnection, the REP shall request the TDU, municipally owned utility, or electric cooperative to reconnect the customer's electric service as quickly as possible. The REP shall inform the customer of the approximate reconnection time in accordance with this subsection. If a REP submits a reconnection order with no priority or same day reconnect request and the TDU completes the reconnect the same day, the TDU shall not assess a priority reconnect fee. A TDU may assess a priority reconnect fee only when the customer expressly requests it. A customer's service shall be reconnected no later than the timelines set forth below:

- (1) For payments made between 8:00 a.m. and 12:00 p.m. on a business day, a REP shall send a reconnection request to the TDU no later than 2:00 p.m. on the same day. The TDU shall reconnect service to that customer that day if possible, but no later than the end of the next utility field operational day after the reconnection request was received by the TDU.
- (2) For payments made after 12:00 p.m., but before 5:00 p.m. on a business day, a REP shall send a reconnection request to the TDU by 7:00 p.m. on the same day. The TDU shall reconnect service to that customer the next day if possible, but no later than the end of the next utility field operational day after the reconnection request was received by the TDU.

- (3) For payments made after 5:00 p.m., but before 7:00 p.m. on a business day, a REP shall send a reconnection request to the TDU by 9:00 p.m. The TDU shall reconnect service to that customer as soon as possible, but no later than the end of the next utility field operational day after the reconnection request was received by the TDU.
- (4) For payments made after 7:00 p.m., but before 8:00 a.m. on the next business day, a REP shall send a reconnection request to the TDU by 2:00 p.m. on the next business day. The TDU shall reconnect service to that customer no later than the end of the next utility field operational day after the reconnection request was received by the TDU.
- (5) For payments made on a weekend day or a holiday, a REP shall send a reconnection request to the TDU by 2:00 p.m. on the first business day after the payment was made. The TDU shall reconnect service to that customer no later than the end of the next utility field operational day after the reconnection request was received by the TDU.
- (6) In no event shall a REP fail to send a reconnection notice within 48 hours after the customer's satisfactory correction of the reasons for disconnection as specified in the disconnection notice.
- (7) In no event shall a TDU fail to reconnect service within 48 hours after a reconnection request is received.

~~(e) — This section is effective June 1, 2004.~~

§25.485. Customer Access and Complaint Handling.

(a) – (d) (No change.)

(e) **Complaints to the commission.**

(1) (No change.)

(2) While an informal complaint process is pending:

(A) The REP or aggregator shall not initiate collection activities, including ~~termination or~~ disconnection of service (as appropriate) or report the customer's delinquency to a credit reporting agency with respect to the disputed portion of the bill.

(B) A customer shall be obligated to pay any undisputed portion of the bill and the REP may pursue ~~termination or~~ disconnection of service (as appropriate) for nonpayment of the undisputed portion after appropriate notice.

(3) – (4) (No change.)

~~(f) — This section is effective June 1, 2004.~~

§25.488. Procedures for a Premise with No Service Agreement.

- (a) (No change.)
- (b) **Service to premise with no service agreement.** If a REP finds that a current occupant at a premise for which the provider is shown as the REP of record in the ERCOT or TDU system is not the customer with whom the REP currently has a service agreement for retail electric service:
- (1) (No change.)
- (2) ~~the REP with disconnection authority~~~~the non-affiliated REP may issue a termination notice and the affiliated REP~~ may issue a disconnection notice to the current occupant. The notice shall contain the following:
- (A) The date the ~~disconnection~~~~termination (or disconnection)~~ will occur, provided that the date shall not be sooner than ten days from the date the notice is issued;
- ~~(B) For notices issued by a non-affiliated REP to a residential or small non-residential customer, as those terms are defined in §25.43 of this title (relating to Provider of Last Resort (POLR)), that the customer's service shall be transferred to the affiliated REP if the customer does not respond within ten days after issuance of the notice;~~
- ~~(B)(C)~~ For notices issued ~~by the affiliated REP~~ to customers, residential and small non-residential customers, as those terms are defined in §25.43 of this ~~title~~, that the customer's service shall be disconnected if the customer does not respond within ten 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, that the customer's service shall be transferred to the provider of last resort if the customer does not respond within ten days after the issuance of the notice;~~

~~(C)(E)~~ What actions the customer must take if that customer believes the notice is in error or desires to establish service with the REP; and

~~(D)(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.

~~(e) **Termination of service to residential and small non-residential customer by non-affiliated REPs.** If a non-affiliated REP terminates service to an occupant in accordance with this section, the REP shall transfer that occupant 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).~~

~~(d) **Disconnection of residential and small non-residential customer by affiliated REP.** If an affiliated REP disconnects service with the occupant, 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 to a large non-residential occupant in accordance with this section, the REP shall transfer that occupant to the provider of last resort.~~

~~(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.~~

§25.491. Record Retention and Reporting Requirements.

(a) – (b) (No change.)

(c) **Annual reports.** On June 1 of each year, a REP shall report the information required by §25.107 of this title (relating to Certification of Retail Electric Providers (REPs)) to the commission and the Office of Public Utility Counsel (OPUC) and the following additional information on a form approved by the commission for the 12-month period ending December 31 of the prior year:

(1) – (4) (No change.)

(5) The number of complaints received by the REP from residential customers for the following categories by month, by nine-digit zip code and census tract:

(A) – (E) (No change.)

(F) Collection and service termination, and disconnection, which shall encompass all complaints pertaining to the implementation of §25.480 of this title, ~~§25.482 of this title (relating to Termination of Service),~~ and §25.483 of this title (relating to Disconnection of Service).

(6) (No change.)

(d) (No change.)

~~(e) — This section is effective June 1, 2004.~~

§25.493. Acquisition and Transfer of Customers from one Retail Electric Provider to Another.

- (a) (No change.)
- (b) **Notice requirement.** Any REP other than a provider of last resort (POLR) that will acquire customers from another REP due to acquisition, merger, bankruptcy, or any other similar reason, shall provide notice the notice required by subsection (c) or (d) of this section to every affected customer. The notice may be in a billing insert or separate mailing, at least 30 days prior to the transfer. If legal or regulatory constraints prevent the sending of advance notice, the notice shall be sent promptly after all legal and regulatory impediments have been removed. The POLR shall comply with the requirements of §25.43 of this title (relating to Provider of Last Resort (POLR)). Transferring customers from one REP to another does not require advance commission approval, unless the transfer is due to abandonment of a REP ~~pursuant to §25.482(d) of this title (relating to Termination of Service)~~. The acquiring REP shall also inform the commission or commission staff of the acquisition of customers.
- (c) – (e) (No change.)
- ~~(f) — This section is effective June 1, 2004.~~

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

**ISSUED IN AUSTIN, TEXAS ON THE 27th DAY OF OCTOBER 2006 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**