

PROJECT NO. 27711

RULEMAKING TO MODIFY THE	§	PUBLIC UTILITY COMMISSION
ELECTRIC LOW-INCOME	§	
DISCOUNT RULES	§	OF TEXAS
	§	

PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §25.451, §25.454, AND §25.457 AS APPROVED AT THE JULY 10, 2003 OPEN MEETING

The Public Utility Commission of Texas (commission) proposes amendments to §25.451, relating to Administration of the System Benefit Account; §25.454 relating to Rate Reduction Program; and §25.457, relating to Implementation of the System Benefit Fee by the Municipally Owned Utilities and Electric Cooperatives. The commission has administered the System Benefit Fund (SBF) and has contracted for administration of the Low-Income Discount Program for over a year. As a result of the experience gained during this time, the commission has determined that several improvements to the rules could benefit retail customers, the accountability of SBF, and the Low-Income Discount Program. Project Number 27711 is assigned to this proceeding.

The primary goal of these amendments is to ensure that the low-income discount rules and practices are consistent and enforceable, guide the proper administration of the SBF and Rate Reduction Program, and allow for the creation of a customer based eligibility matching process for the Rate Reduction Program. The proposed amendments to §25.451 are largely clarifying changes and changes to conform the rule to current law. Proposed amendments to §25.457 are largely clarifying changes. The commission proposes the amendments to §25.454 in response to concerns that the current rule does

not adequately reflect actual practices, that customers who may not be eligible for the program are receiving rate reductions, and that current processes are leading to both retail electric provider (REP) and customer confusion.

The commission recommends three main changes to §25.454, in addition to minor clarifications, to better conform the rule language to the practical application of the rate reduction program. First, the commission proposes that direction for the Low-income Discount Program within §25.454 should be general and should allow for a Low-Income Discount Procedural Guide. The commission proposes that a working guide is the most practical place to specify the detailed processes of the Low-Income Discount Program because it will allow the rule to provide broad direction for the program but still permit process changes and refinements by the Low-Income Discount Administrator (LIDA) and Retail Electric Providers (REPs) to meet statutory obligations and the needs of the customers. The guide will also ensure that the commission's directives for a customer based eligibility matching process can be designed in coordination with practical application of systems and business processes. The commission intends to seek input from all stakeholders in the development and adoption of the guide through the use of workshops, meetings, and solicitation of comments. If, and to the extent that the adoption of the guide requires APA notice and comment, the commission will follow those procedures.

The main process change that the commission proposes to be addressed in the Low-Income Discount Procedural Guide is the removal of the Electric Reliability Council of

Texas (ERCOT) data from the monthly matching process. The commission proposes the change because the current matching process does not provide sufficient accountability of the end-use customer for the Low-Income Discount Program due to the fact that ERCOT maintains premise-specific rather than customer-specific information. The result of the premise-based eligibility matching process is a potential that rate reductions are being applied to premises at which eligible customers no longer reside, and to premises at which the electric customer is not the person who receives Texas Department of Human Services (TDHS) benefits. The process has also resulted in customer confusion when customers receive a discount for which they did not sign up or fail to receive a discount for which they did sign up. These problems result in customer complaints and time-consuming efforts by the REPs, ERCOT, the LIDA, and the commission. The commission proposes that ERCOT's premise-specific data for the monthly matching process be replaced by customer and premise data submitted by the REPs who serve residential customers. With this information, the LIDA would be able to utilize customer information in the eligibility matching process to ensure that eligibility could not be granted to ineligible customers and would be able to identify more easily the reasons that applicants may not be successfully enrolled in the program. Additionally, by increasing the information in the LIDA database, the synchronization of the electric and telephone discount programs could be better accomplished when the telephone discount enrollment is integrated into the Low-Income Telephone and Electric Utility Program (LITE-UP).

Second, the commission proposes that language regarding the discount rate and discount amounts be amended to describe the calculation and application of rate reductions. The

current language of §25.454(d) has proven to be confusing to REPs during the first year of implementation. This led to varying applications of the discount, which were both difficult to audit and confusing to the customers. To standardize discounts, the commission has determined that it is necessary for REPs to use the discount credits posted on the commission's website to calculate the rate reductions and for the REPs to identify the rate reduction as a line item on their eligible customers' electric bills.

Third, the commission proposes that the eligibility period for self-certified customers should be seven months and that the eligibility period for automatic enrollment customers should be the length of their TDHS program eligibility plus a grace period. The commission proposes the change because the current eligibility period of 13 months for both self-certified and automatically enrolled customers is not consistent with the eligibility periods of programs administered by TDHS, which currently serve as the basis for automatic enrollment. Such an inconsistency may result in ineligible customers receiving a discount. The commission proposes that both the self-certification and automatic enrollment eligibility periods conform to TDHS program eligibility plus a grace period. The commission finds that reducing the eligibility periods of both self-certification and automatic enrollment customers, while allowing renewal for customers who continue to be eligible, will ensure that all customers who are enrolled in the program are in fact eligible.

Lauren Clark, Analyst, Electric 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

local government as a result of enforcing or administering the section; there is no foreseeable direct or indirect implication for costs or revenues for local governments. Ms. Clark has determined that the state government will save money as a result of ineligible customers being removed from the enrollment lists. The specific savings amount cannot be determined until testing of the new process is complete. However, even if less than 2.0% of customers have moved and not informed LIDA or have submitted an address to TDHS at which they do not reside, there would be approximately 10,000 enrolled premises with ineligible electric customers. Assuming these customers received about \$116 a year in discounts (approximate savings with a 10% discount at today's rates), SBF could save \$1.16 million for a 12 month period by not serving these ineligible customers.

Ms. Clark 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 these sections will be certainty that only eligible low-income electric customers will receive discounts and the economic savings associated with preventing ineligible customers from receiving the discounts. Ms. Clark has also determined that while the short term effect of the change in matching processes will produce a clean-up effect and therefore a potential decline in enrollment, the long term ability to use customer data with the integration of the telephone and electric discounts will allow for an increased likelihood that eligible customers can be efficiently enrolled to receive both discounts. Additionally, the workaround and problem-solving efforts currently undertaken by REPs, LIDA, and the

commission should decrease in the long term as the matching process is improved, which will produce a direct benefit to the eligible customers and applicants.

As part of this proceeding, the commission requested that REPs that serve low-income residential customers provide estimated costs of complying with the proposed rule. Based on the self-reported cost estimates, there would be economic costs to persons who are required to comply with the proposed section. The implementation costs would be the result of the development and testing of residential customer file extracts and automated file uploads from REPs to the LIDA; in addition, two REPs estimated ongoing operational costs. The costs are likely to vary from business to business and are difficult to ascertain. REPs that are large businesses typically serve more low-income customers than the REPs that are small businesses and micro-businesses. Based on the estimates provided by REPs, the implementation cost will be, per low-income customer, between \$0.50 and \$3.25. Because the costs per low-income customer will be comparable for all REPs, and because larger REPs serve more low-income customers than small business REPs and micro-business REPs, the economic cost for a REP that qualifies as a small business or a micro-business will be proportionately lower than the economic costs to the larger businesses. Although REPs would incur operational costs, once they have implemented the systems required to comply with the proposed rule, it is anticipated operational costs will be low. Further, it is believed that the benefits accruing from implementation of the proposed section will partially or completely outweigh these costs. These benefits will accrue from the savings to SBF, the more efficient enrollment of

customers into both telephone and electric discount programs, and the decreased workaround time.

Ms. Clark 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 Administrative Procedure Act §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 Tuesday, September 16, 2003. The request for a public hearing must be received no later than September 2, 2003.

Comments on the proposed amendments (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326. The deadline for submission of comments is September 2, 2003. Reply comments are due by September 9, 2003. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed sections. The commission will consider the costs and benefits in deciding whether to adopt the sections. All comments should refer to Project Number 27711.

In addition to the proposed amendments, the commission requests comments on the following question:

Should the Low-Income Discount Procedural Guide be approved by the Executive Director or the Commissioners?

These amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2003) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, PURA §39.903 which requires the commission to review and approve system benefit fund accounts, projected revenue accounts, proposed nonbypassable fees, to adopt rules providing for enrollment of customers eligible to receive reduced rates under PURA §39.903(h), to adopt rules for a retail electric provider to determine a reduced rate, and to adopt rules providing for reimbursement.

Cross Reference to Statutes: Public Utility Regulatory Act §§39.106, 39.352, 39.262, 39.901, 39.903, 40.053, 40.057, 41.053, and 41.057.

§25.451. Administration of the System Benefit FundAccount.

(a) **Purpose.** The purpose of this section is to implement the system benefit fundaccount, including its administration, establishment of a revenue requirement, fee collection, reporting procedures, and review and approval of the fundaccounts pursuant to the Public Utility Regulatory Act (PURA) §39.901 and §39.903.

(b) **Application.** Except as provided in PURA §39.102(c), this subchapter applies to electric utilities, retail electric providers (REPs), REPsretail electric providers pursuant to PURA §39.352(g), and transmission and distribution utilities (TDUs). This section applies to municipally owned electric utilities and electric cooperatives no sooner than six months preceding the date on which a municipally owned electric utility or an electric cooperative 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) ~~Electric cooperative (Coop) — As defined in §25.5 of this title (relating to Definitions).~~

(2) ~~Electric utility — As defined in PURA §31.002(6).~~

(1)(3) **Fiscal year** — The State of Texas fiscal year, beginning~~starting~~ on September 1 of onea calendar year, and ending on August 31 of the subsequent calendar~~next~~ year.

~~(4) Low income customer — For the purposes of rate reduction program, as defined in §25.454(c) of this title (relating to the Rate Reduction Program). For the purposes of targeted weatherization programs, as defined in §25.453(f) of this title (relating to Targeted Energy Efficiency Programs).~~

~~(5) Retail customer — As defined in PURA §31.002(16).~~

~~(6) Retail electric provider (REP) — As defined by PURA §31.002(17).~~

~~(2)(7) **System Benefit Fundbenefit account** — A fundAn account 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)(8) **System benefit fee** — A nonbypassable fee set by the commission to finance the System Benefit Fundsystem benefit account. 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.~~

~~(9) **Transmission and distribution utility (TDU)** — As defined in PURA §31.002(19).~~

(d) **System benefit fee.**

(1) 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.

- (2) The amount of the fee ~~shall~~ will 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.
- (3) The commission may, at any time during the fiscal year, review the revenue and the statutory program disbursements requirement, ~~projected retail sales of electricity, or the system benefit account payments and balance,~~ and revise the system benefit fee amount, and issue an order for the remainder of the year to accomplish the purposes of PURA §39.901 and §39.903. ~~The commission may issue an order revising the fee amount.~~ 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, or at least once annually, the TDUs will file with the commission an updated tariff sheet, reflecting the new fee.
- (4) The fee may not exceed ~~\$0.50 per MWh, except beginning in January 1, 2002, and until December 31, 2006, it may be set in an amount not to exceed \$0.65 per MWh if necessary to fund at least a 10% reduction in rates for qualifying low-income customers.~~
- (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, all operating costs of the Rate Reduction Program, a reserve balance to be determined by the commission, and any other purpose

~~required by statute used by the commission to set the system benefit fee for each fiscal year shall be established as provided by this subsection.~~

~~(1) The total revenue requirement used to set the amount of the system benefit fee will be the total of the revenue requirements determined under paragraphs (2)-(5) of this subsection, including the shortfall, if any, in funding for the Texas Education Agency (TEA) from the previous year.~~

~~(2) TEA shall provide by June 1 of each year its estimate of the amount required to fund school funding losses as determined under PURA §39.901(b) and (c) for the next fiscal year. If TEA does not provide its estimate by this date, the commission may use the amount determined by TEA under PURA §39.901(b) and (c) for the current fiscal year in setting the amount of the fee for the following fiscal year.~~

~~(3) The revenue requirement needed to effect the rate reduction for low-income customers and the targeted energy efficiency programs shall be determined as follows:~~

~~(A) The revenue requirement for reduced rates as provided by PURA §39.903(h) (1) shall be based on the average annual consumption of electric energy by low-income customers and the number of such customers enrolled in a rate reduction program as of June 1 of each year, or the number of eligible participants as listed in the Texas Department of Human Services' client database, plus a projection for new enrollees, to account for growth in enrollment, based on the latest available census data and as determined by the~~

~~commission. The average annual expenditure by a low income customer for electric energy shall be derived from the latest available data. The commission may use information provided by the REPs for the purposes of estimating rate discount revenue requirement.~~

~~(B) The revenue requirement for targeted energy efficiency programs, including a low income energy efficiency plan, to be administered by the Texas Department of Housing and Community Affairs (TDHCA) shall be provided to the commission by June 1 of each year. If TDHCA does not provide an estimate by that date, the commission may use the estimate from the previous fiscal year, the actual amount spent on the programs in the prior fiscal year, or any other amount the commission determines to be reasonable.~~

~~(4) The commission shall include in the calculation of revenue requirement any additional amounts authorized by the legislature, including appropriations to the Public Utility Commission for customer education programs and any other authorized purpose, and for the Office of Public Utility Counsel.~~

~~(5) The commission shall include in the calculation of the revenue requirement the operating costs for the low income discount administrator.~~

(f) **Electric sales estimate.** The TDUs, and when applicable, the municipally~~municipally~~ owned utilities (MOUs) and Coops, upon request by the

commission, shall supply an aggregate number of the amount of retail electric sales in their service areas for the preceding calendar year, by April 1 of each year. Upon receipt of such information, the commission will file the aggregated retail electric sales in the relevant areas, after adjusting for projected growth. The commission shall determine the most reasonable estimate when it sets the system benefit fee.

(g) **Remittance of fees after January 1, 2002.**

- (1) Beginning in January 2002, each TDU, MOU, or Coop, collecting the system benefit fee from the ~~REPs~~REP, MOUs, or Coops, in its service area, shall remit the fees to the Comptroller on the 20th day of each month.
- (2) Remittance of funds to the Comptroller shall comply with the Comptroller's rules governing any such deposits and the method in which they are sent to the Comptroller. ~~Any amounts over \$250,000 shall be transferred electronically.~~
- (3) Deposits due to the System Benefit Funds~~system benefit account~~ pursuant to PURA §39.352(g) shall be transferred to the Comptroller at the time of the filing of the annual report pursuant to §25.107 of this title (relating to Certification of Retail Electric Providers (REPs)) in a form prescribed by the Comptroller.

(4) The collecting utility shall account for all system benefit fees received from the REPs, ~~and~~ MOUs, or Coops, in its service area separately from any other account in its records.

(h) **Billing requirements.**

- (1) 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).
- (2) 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.
- (3) 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. The TDU will calculate and bill any such fee, and will forward the payment, once received, to the Comptroller on the next fee payment due date. The TDUs will separately identify these sales when submitting the aggregate number of electric retail sales.

(i) **Reporting and auditing requirements.**

(1) Each ~~REP~~~~retail electric provider~~ offering rate ~~reductions~~~~reduction~~ ~~discounts~~ to eligible customers shall keep records of such rate reductions~~discounts~~ to enable an audit by the commission or its agent for at least three years from the date the rate reduction~~discount~~ is first given to the customer. Reports filed under subsection (j) of this section will also be used for auditing purposes. Records kept in accordance with §25.454(f)(3)(B) of this title (relating to Rate Reduction Program) shall be subject to audit upon commission request.

(2) Each TDU, MOU, or Coop collecting and forwarding the system benefit fee to the Comptroller shall file with the commission at the time the money is sent a report, on a commission-prescribed form, stating for each service territory the amount of the system benefit fee billed, the amount forwarded to the Comptroller, and the number of MWh of electric energy sold. The report shall contain monthly amounts and year-to-date totals.

(j) **Reimbursement for ~~the rate~~ reductions~~reduction~~ ~~discount~~.** Each REP, or MOU or Coop, when applicable, shall submit to the commission a monthly activity report on a form prescribed by the commission, including but not limited to, listing information in paragraphs (1)-(5) of this subsection. The commission shall, within five business days of receipt of the monthly report, prepare and deliver to the comptroller an authorization for reimbursement to the REP, MOU,

or Coop in a form prescribed by the commission and the Comptroller. ~~The prescribed form shall include, but not be limited to, instructions for direct deposit of the reimbursement into the bank account of the REP, MOU, or Coop.~~ The Comptroller shall 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 be due on the 20th day following the reporting month and contain the following:

- (1) The number of low-income customers enrolled in the rate reduction program;
- (2) The amount of reimbursement requested ~~and received from the fund for the month~~;
- (3) The aggregate electric energy consumption in kWh for all low-income customers enrolled in the program for the previous month;
- (4) The total amount of rate reductions ~~discounts~~ provided to the low-income customers in the previous month; and
- (5) The amount of the system benefit fee billed by and remitted to the TDU.

(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, or the Comptroller ~~interagency agreements~~.

~~(l) **Establishment of fee and collection of funds prior to January 1, 2002.** Prior to the beginning of customer choice on January 1, 2002, the commission shall~~

~~determine the level of the system benefit fee based upon the expenses authorized for payment out of the system benefit account or as needed for purposes of PURA.~~

~~(1) — An estimate of projected retail sales of electricity for the period shall be filed by the commission staff prior to the issuance of a commission order.~~

~~(2) — The commission shall issue an order setting the amount of the system benefit fee, assessing that amount against each electric utility in proportion to its retail electric sales out of the total retail sales in the state, and directing the utilities on the method and timing of payment.~~

§25.454. Rate Reduction Program.

(a) **Purpose.** The purpose of this section is to define the low-income electric rate reduction program, establish the ~~discount~~ rate reduction calculation, and specify enrollment options and processes.

(b) **Application.** This section applies to retail electric providers (REPs) and~~Except as provided in the Public Utility Regulatory Act (PURA) §39.102(e) and retail electric providers (REPs) certified under PURA §39.352(d), this section applies to REPs,~~ to providers of last resort (POLR) as defined in PURA §39.106, that provide electric service in an area that has been opened to retail competition, and to municipally owned electric utilities and electric cooperatives on a date determined by the commission, but no sooner than six months preceding the date

on which a municipally owned utility or an electric cooperative implements customer choice in its certificated area.

(c) **Definitions.** The following words and terms when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Discount ~~credit~~ amount** — The amount of discount an eligible low-income customer is entitled to receive from any REP in the customer's area, expressed as cents per kilowatt-hour (kWh).

(2) **Discount percentage** — The percentage of discount established by the commission ~~annually, or as needed,~~ and applied to the lower of the price to beat or POLR rate in a particular service territory.

~~(3) **Discount rate** — A rate charged by a REP or POLR that includes the commission-established discount.~~

~~(4) **Electric Reliability Council of Texas (ERCOT)** — a non-profit Texas corporation that represents an area of Texas served by electric utilities, municipally owned utilities, and electric cooperatives, and which is not synchronously inter-connected with electric utilities outside the state of Texas.~~

~~(5) **Electric service identifier (ESI ID)** — The basic identifier assigned to each point of delivery used in the registration system and settlement system managed by ERCOT or another independent organization.~~

~~(6) **Low income customer** — An electric customer, whose household income is not more than 125% of the federal poverty guidelines, or who receives~~

~~food stamps from the Texas Department of Human Services (TDHS) or medical assistance from a state agency administering a part of the medical assistance program.~~

~~(3)(7) **Low-Income Discount Administrator (LIDA)** — A third-party vendor administrator contracted by the commission to administer the rate reduction program.~~

~~(4) **Low-Income Discount Procedural Guide** — A working guide detailing the exact roles and requirements of the Low-Income Discount Administrator (LIDA), REPs, and the Electric Reliability Council of Texas (ERCOT). Instructions in the guide shall be deemed directives of the commission. All versions of the guide will be approved by the Executive Director.~~

~~(5) **Rate reduction** — The total discount to be deducted from a customer's electric bill. This reduction is derived from the discount credit and total consumption in accordance with subsection (d)(3) of this section.~~

~~(8) **Provider of last resort (POLR) rate** — The rate for the standard retail service package offered by the provider of last resort in the area under §25.43 of this title (relating to the Provider of Last Resort).~~

~~(9) **Price to beat (PTB)** — A price for electricity, as determined pursuant to PURA §39.202, charged by an affiliated REP to customers in its service area.~~

~~(10) **Rate reduction program** — A program to provide reduced electric rates for eligible low-income customers, in accordance with PURA §39.903(h).~~

- ~~(11) **Registration agent** Entity designated by the commission to administer registration and settlement, premise data, and other processes concerning a customer's choice of retail electric provider in the competitive electric market in Texas.~~
- (d) **Rate reduction program.** All eligible low-income customers as defined in §25.5 of this title (relating to Definitions) shall be entitled to receive a rate reduction~~discount~~ rate, as determined by the commission pursuant to this section, on their electric bills from their retail electric providers.~~The discount will be identified on each eligible customer's bill and applied only to the electric service portion of the bill.~~
- ~~(1) **Eligibility criteria.** A low income customer, as defined in subsection (c) of this section, is entitled to receive a discount rate.~~
- ~~(1)(2) **Discount percentage.** The commission shall periodically establish a discount percentage each year at the time the commission sets the system benefit fee. The discount percentage shall not be less than 10% and may, if there are funds sufficient to support a higher level, be set as high as 20%.~~
- ~~(A) **Shall not be less than 10% and may, if there are funds sufficient to support a higher level, be set as high as 20%.**~~
- ~~(B) **May be recalculated during the year as necessary.**~~
- ~~(2)(3) **Discount credit amount.** The commission shall set the discount credit for an eligible low-income customer in accordance with this subsection~~A REP~~~~

~~shall provide to each eligible low income customer a rate discounted by an amount as established by this subsection for the area in which the customer is located.~~

(A) ~~The discount credit shall be separately calculated for each transmission and distribution utility service area commission shall calculate and establish the low income discount amount for distinct geographical areas, which shall correspond to the certified electric utility service areas, or smaller areas designated by the commission as POLR service areas.~~

(B) ~~The discount credit amount shall be calculated by applying the discount percentage to taking the lower of the POLR rate and the standard residential price to beat rate. More details concerning the calculation of the discount credit will be set out in the Low-Income Discount Procedural Guide.~~PTB to establish the baseline rate. If there are multiple price to beat rates available to a residential customer, the commission will calculate the baseline rate by using the standard residential rate, seasonally adjusted; multiply it by the cost of the first 1000 kWh of usage; and then divide it by 1000 to obtain a cents per kWh cost. The discount amount shall be calculated by multiplying the cents per kWh cost of the baseline rate by the discount percentage.~~~~

(C) ~~If the commission changes the discount credit changes for any area because of a change to amount, by either changing the discount~~

percentage or a change to the ~~establishing a new~~ baseline rate for any area, ~~then~~ REPs shall ~~must~~ implement the resulting change in the discount credit amount in their billings to customers within 30 calendar days of the date the commission issues an order changing the discount credits order.

~~(D) REPs are entitled to reimbursement under §25.451(j) of this title (relating to Administration of the System Benefit Account) for amounts equal to the documented discount amounts they have provided to eligible low income customers.~~

~~(3)(4) **Rate reduction.** Each eligible low-income customer shall be entitled to receive a rate reduction from any REP in the customer's service area a discount rate equal to the discount amount times the number of kWh of electricity, which the customer has consumed during a billing cycle. The discount rate shall be the rate the customer would otherwise be charged by that REP minus the discount amount.~~

~~(A) REPs will maintain a current record of the commission-posted discount credits per area, per season. REPs will use the posted discount credits to calculate the rate reduction for each eligible low-income customer's bill.~~

~~(B) The rate reduction will be calculated by multiplying the customer's total consumption (kWh) by the discount credit (cents/kWh).~~

~~(C) REPs will clearly identify the customer's discount credit and resulting rate reduction as a line item on the electric portion of the~~

customer's bill. The discount credit will be detailed on the left side of the billing section, opposite the rate reduction, with the language: "LITE-UP Discount - ___ kWh Total @ ___ cents/kWh."

(D) REPs are entitled to reimbursement under §25.451(j) of this title (relating to Administration of the System Benefit Fund) for amounts equal to the documented rate reductions they have provided to eligible low-income customers.

(e) **Terms of customer enrollment.** Eligible customers will be enrolled in the ~~low-income discount rate reduction~~ program through automatic enrollment or a self-certification process implemented by LIDA.

(1) **Automatic enrollment.** Automatic enrollment is an electronic process to identify customers eligible for the rate reduction by matching client data from TDHS with electric customer data ~~of identifying customers eligible for the low-income discount rate by matching data from agencies that operate programs serving eligible clients with electric utility data maintained by the ERCOT's registration agent.~~ The transfer of data for the purposes of establishing and maintaining the automatic enrollment process shall be detailed in the Low-Income Discount Procedural Guide ~~between TDHS, ERCOT, and the LIDA. To accomplish the purposes of this subsection, the commission shall:~~

~~(A) Contract with a person to perform the LIDA function. This person shall perform all necessary tasks to establish and maintain the~~

~~automatic enrollment system, or any other related task, as specified in the contract.~~

~~(B) Enter into a memorandum of understanding with TDHS to establish the respective duties of the two agencies.~~

~~(C) Develop a protocol to define the automatic enrollment process and the respective duties of the participating entities sharing data.~~

(2) **Self-certification.** Self-certification is ~~ana form~~ of alternate enrollment process available to ~~those~~ eligible electric customers who are not automatically enrolled and do not receive benefits from TDHS, but whose combined household income does not exceed 125% of federal poverty guidelines. The self-certification~~Self-certification~~ enrollment process shall be administered by LIDA. LIDA's responsibilities shall include:

(A) Distributing and processing~~Processing~~ the self-certification applications, ~~as which shall be filed on a form~~ developed by the commission;

(B) Maintaining customer records for all applicants~~Adding qualified applicants to the list of eligible electric service identifiers (ESI IDs).~~

(C) Providing information to customers regarding the process of enrolling in the low-income discount program~~Processing and maintaining a list of applicants' address changes.~~

- (D) Matching customer information submitted through self-certification forms with electric customer data; and Forwarding to the REPs the list of ESI IDs, with monthly updates.
 - (E) Verifying the self-certification by requesting copies of tax returns, pay stubs, letters from employers, or other information.
~~Maintaining a toll-free number for inquiries. This number shall be displayed on the self-certification application.~~
 - (F) ~~Conducting outreach and distributing self-certification applications.~~
 - (G) ~~LIDA may, at its discretion verify the self-certification applicants' income by requesting copies of tax returns, pay stubs, or letters from employers.~~
- (3) **Period of customer enrollment.** The eligibility period of each customer will be determined by the customer's method of enrollment: ~~Once enrolled, the eligible customer shall receive the discount rate for 13 months from the date of enrollment.~~
- (A) The eligibility period for self-certified customers is seven months from the date of enrollment. Self-certified customers will have the opportunity to renew their eligibility for an additional seven months, prior to the expiration of their eligibility period.~~The continued eligibility status of the customer shall be reviewed during the twelfth month after the date of initial enrollment, and every 12 months thereafter.~~

(B) The eligibility period for automatically enrolled customers is the length of their enrollment in TDHS benefits as defined in subsection (c) of this section plus a grace period for renewal. Automatically enrolled customers will have the opportunity to renew their eligibility and to become self-certified for an additional seven months, upon the expiration of their automatic enrollment.~~Customer who continues to receive TDHS benefits as defined in subsection (c) of this section, will have eligibility for the discount rate renewed for a new 13-month period.~~

(f) **Responsibilities**~~Protocol.~~ In addition to the requirements established in this section, program responsibilities may be established in the commission's contract with LIDA, the memorandum of understanding between the commission and TDHS, and the Low-Income Discount Procedural Guide.~~The purpose of the protocol is to define responsibilities of the participating entities. Other technical information may be added to the request for proposal for the LIDA and memoranda of understanding between the parties as necessary to establish the automatic enrollment process, in accordance with this section.~~

(1) **TDHS shall:**

(A) Assist in the implementation and maintenance of the automatic enrollment process by providing a database of customers receiving TDHS benefits as detailed in the memorandum of understanding between TDHS and the commission.~~No later than April 1, 2001,~~

~~provide the LIDA with a complete database of its clients, stripped of all information except as listed below, and sorted by ZIP codes.~~

~~For each client, the database shall include:~~

- ~~(i) Full name; and~~
- ~~(ii) Service and mailing addresses, including city, state, and five-digit ZIP code, following the U.S. Postal Service standards;~~

~~(B) Assist in the distribution of promotional and informational material as detailed in the memorandum of understanding Provide the LIDA with monthly updates of the names, or ESI ID if available, and addresses of new clients and any address changes for existing clients who move.~~

~~(C) Provide monthly updates of clients who are no longer receiving benefits from TDHS as of the twelfth month of client enrollment in the low-income discount program.~~

~~(D) Distribute the self-certification applications in TDHS offices statewide.~~

~~(2) **ERCOT shall:**~~

~~(A) No later than April 1, 2001, allow the LIDA to have access to a database of residential premises that includes for each premise:~~

- ~~(i) Service address, including city, state, and five-digit ZIP code, following the U.S. Postal Service standards; and~~

- ~~(ii) ESI ID.~~

- ~~(B) Provide the LIDA with monthly updates of new residential premises and their ESI IDs.~~
- ~~(C) Provide the LIDA with monthly updates of residential premises that have had a change of tenant (i.e., move out/move in).~~
- ~~(D) Provide the LIDA with monthly updates of those customers and ESI IDs who switched retail electric providers.~~

~~(2)~~⁽³⁾ **LIDA shall:**

- (A) Retrieve customer lists on a monthly basis through data transfer as detailed in the Low-Income Discount Procedural Guide~~the initial database of residential premises and ESI IDs from ERCOT.~~
- (B) Retrieve the ~~initial~~ database of clients from TDHS on a monthly basis.
- (C) Conduct self-certification, automatic enrollment, and renewal processes~~Establish a list of eligible ESI IDs by initially, and then periodically, comparing the addresses from the ERCOT and TDHS databases and identifying records that reasonably match.~~
- (D) Send lists of low-income customers eligible to receive the rate reduction to each REP on a monthly basis~~Retrieve on a monthly basis the ERCOT's update of change of tenants and remove those ESI IDs from the list of eligible ESI IDs.~~
- (E) Establish a list of eligible ESI IDs by comparing the customer lists and TDHS databases and identifying records that reasonably

~~match~~ Retrieve on a monthly basis the ERCOT's list of new premises and add those to the database used for matching.

~~(F)~~ Retrieve on a monthly basis the TDHS list of addresses of new clients and clients who have moved and add those that reasonably match the ERCOT list to the list of eligible ESI IDs.

~~(G)~~ Implement a program whereby potential low-income customers can self-certify for enrollment in the rate reduction program, as specified in subsection (e)(2) of this section. The program must enable the customer to submit a change of address.

~~(F)(H)~~ Develop procedures to notify customers of enrollment, expiration, and opportunities for renewal of the rate ~~reduction~~ discount program.

~~(G)~~ Provide information to customers regarding enrollment for the rate reduction program and eligibility requirements.

~~(I)~~ Annually report to the commission as to the number of customers enrolled through the automatic enrollment process and the number of customers enrolled through self-certification.

~~(J)~~ Make the database of eligible ESI IDs available to the REPs.

~~(3)(4)~~ **A REP shall:**

~~(A)~~ Provide information to, and receive information from, LIDA in accordance with the Low-Income Discount Procedural Guide Retrieve on a monthly basis the list of eligible ESI IDs from the LIDA.

- (B) Monitor high-usage customers to ensure that premises are in fact residential and maintain records of monitoring efforts for audit purposes. High-usage customers shall be defined in the Low-Income Discount Procedural Guide. Compare the list of its customers with the list of eligible ESI IDs, and enroll those ESI IDs that match in the rate discount program. The customer enrollment shall take place within the first billing cycle if notification is received within seven days before the end of the billing cycle or within 30 calendar days after the REP receives notification from the LIDA, whichever comes first.
- (C) Apply a rate reduction to the electric bills of the eligible ESI IDs identified by LIDA within the first billing cycle, if notification is received within seven days before the end of the billing cycle, or within 30 calendar days after the REP receives notification from the LIDA, whichever occurs first. Develop procedures to notify customers of enrollment, expiration, and opportunities for renewal of the rate discount program.
- (D) Notify customers twice a year about the availability of the rate reduction discount program, and provide self-certification forms to customers upon request.
- (E) Resolve issues concerning customer eligibility, including the failure to provide discounts to customers who believe they are eligible and the provision of discounts to customers who may not

meet the eligibility criteria, in accordance with the Low-Income Discount Procedural Guide.

~~(F)(E)~~ Provide to the commission copies of materials regarding the rate reduction~~discount~~ program given to customers during the previous 12 months.

~~(4)~~ ERCOT. Shall provide information to, and receive information from, LIDA in accordance with the Low-Income Discount Procedural Guide.

(g) Confidentiality provision.

- (1) All data transfers shall be conducted under the terms and conditions of a TDHS confidentiality agreement so as to protect customer privacy. The acquired data shall only be used for the purposes of implementing automatic enrollment.
- (2) Data shall not be provided to the REPs in advance of registering customers. LIDA's protocols and procedures shall be developed in a way that maintains the customer eligibility for the rate reduction~~discount~~ as proprietary data not to be used for any other purpose.

§25.457. Implementation of the System Benefit Fee by the Municipally Owned Utilities and Electric Cooperatives.

(a) **Purpose.** The purpose of this section is to implement the system benefit fee and associated programs as they relate to municipally owned utilities and electric cooperatives.

(b) **Applicability.** This section applies to a municipally owned utility and electric cooperative, no sooner than six months preceding the date on which a municipally owned utility or an electric cooperative implements customer choice in its certificated service area.

~~(c) **Definitions.** The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.~~

~~(1) **Electric cooperative** — As defined in §25.5 of this title (relating to Definitions).~~

~~(2) **Municipally owned utility** — As defined in §25.5 of this title.~~

~~(c)(d) **Implementation of fee collection.** Not earlier than six months before the onset, and not later than the day of implementation of customer choice in its service territory, a municipally owned utility or an electric cooperative shall impose on its customers, including its transmission and distribution customers who choose to receive a single bill from the municipally owned utility or electric cooperative, a~~

system benefit fee, as determined by the commission pursuant to §25.451(d) of this title (relating to the Administration of the System Benefit ~~Fund~~Account).

~~(d)~~**(e) Billing requirements.** Each municipally owned utility or electric cooperative shall comply with the billing requirements in §25.451(h) of this title.

~~(e)~~**(f) Remittance of funds.** The system benefit fee collected by a municipally owned utility or an electric cooperative shall be remitted to the Texas Comptroller of Public Accounts (Comptroller) pursuant to §25.451(g) of this title.

~~(f)~~**(g) Fee reduction.** The commission shall, on a request by a municipally owned utility or an electric cooperative, reduce the system benefit fee, imposed on the requesting entity's~~its~~ retail customers, by an amount equal to the amount provided by the requesting municipally owned utility or an electric cooperative, or their retail customers, for local, low-income programs and local programs that educate customers about the retail electric market in a neutral and non-promotional manner. The qualifying low-income programs must reduce the cost of electricity to the recipients of such programs and be targeted at customers whose total household income does not exceed 125% of federal poverty guidelines. Upon request by the commission~~At the time of its request~~, and once a year thereafter, the municipally owned utility or an electric cooperative shall provide to the commission the following:

- (1) The total in kWh of electric power sold to its retail customers in the 12 months preceding the request;
- (2) The total amount spent on ~~the~~ qualifying, local, low-income programs, for which the reduction is being sought, in the 12 months preceding the date of request;
- (3) The total amount spent on qualifying, local, educational programs, for which the reduction is being sought, in the 12 months preceding the date of request;
- (4) The total amount projected to be spent on qualifying, local, low-income programs, for which reduction is being sought, in the 12 months following the date of request; and
- (5) The total amount projected to be spent on local, qualifying, educational programs, for which reduction is being sought, in the 12 months following the date of request.

(g)(h) **Rate reduction**~~Reduced rate~~. A municipally owned utility or an electric cooperative shall establish a discount credit~~reduced rate~~ for its low-income customers, who are eligible for a rate reduction~~discount~~ pursuant to §25.454(d) of this title (relating to the Rate Reduction Program). The rate reduction will be calculated pursuant to §25.454(d)(3)(B) of this title (relating to the Rate Reduction Program). The discount credit, ~~which~~ will be discounted off the standard retail service package established under the Public Utility Regulatory Act (PURA) §40.053 or §41.053, as appropriate. The discount credit and

resulting rate reduction will be clearly identified as a line item on the electric portion of the customer's bill.

~~(h)~~(i) **Reduction in program funding.** If a municipally owned utility or an electric cooperative requests a reduction in fees paid pursuant to subsection ~~(f)~~(g) of this section, then the portion of the system benefit fee proceeds allocated for low-income or education programs for that municipally owned utility or electric cooperative shall be reduced by the amount of such reduction.

~~(i)~~(j) **Reimbursement.** Each municipally owned utility or electric cooperative is entitled to reimbursement under §25.451(j) of this title (relating to Administration of the System Benefit Fund) for amounts equal to the documented rate reductions they have provided to eligible low-income customers. ~~To receive reimbursement for the rate discounts provided to eligible low income retail customers, the municipally owned utility or electric cooperative shall comply with §25.451(j) of this title. The municipally owned utility or electric cooperative may seek reimbursement for the difference between the reduced rate charged to its low-income customers and the standard retail service package established under PURA §40.053 or §41.053, as appropriate. The total annual reimbursement for a municipally owned utility or electric cooperative shall not be more than the proportional amount a municipally owned utility or electric cooperative has paid into the System Benefit Fundssystem benefit account. The proportional amount~~

shall be established by the commission in the following manner, and amended as necessary:

- (1) By calculating a share of the total revenue in the System Benefit Fund~~system benefit account~~ that is spent on each of the programs as described in PURA §39.903(e) in the preceding 12 months; and
- (2) By calculating the share of total spending on programs pursuant to PURA §39.903(e)(1) paid by each municipally owned utility or electric cooperative into the System Benefit Fund~~system benefit account~~; and
- ~~(3) Any such calculations can be amended by the commission as necessary throughout the year.~~

~~(j)(4)~~ **Reporting requirements.** If a municipally owned utility or an electric cooperative continues to bill customers pursuant to PURA §40.057(c) or §41.057(b), as appropriate, then the municipally owned utility or electric cooperative shall file with the commission two ~~types of~~ reports. One report will identify the amount of system benefit fee collected and paid by the reporting entity's~~its~~ retail customers pursuant to §25.451(i)(1) of this title; the other~~second~~ report shall identify the amount of system benefit fee paid by the transmission and distribution only customers pursuant to §25.451(i)(2) of this title. Both ~~types of~~ reports shall be filed with the commission at the time the system benefit fee is paid pursuant to §25.451(g) of this title.

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

**ISSUED IN AUSTIN, TEXAS ON THE 16th DAY OF JULY 2003 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**

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