

PROJECT NO. 31853

RULEMAKING RELATING TO	§	PUBLIC UTILITY COMMISSION
AMENDMENT OF DEPOSIT	§	
REQUIREMENTS FOR VICTIMS	§	OF TEXAS
OF FAMILY VIOLENCE AND LOW-	§	
INCOME ELDERLY CUSTOMERS	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.478
AS APPROVED AT THE MARCH 8, 2006, OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §25.478, relating to Credit and Deposit Requirements for Residential Customers. The proposed amendment will allow victims of family violence and customers who are 65 years or older whose household income is at or below 150% of the poverty guidelines to satisfy retail electric providers' (REPs') credit and/or deposit requirements. This rule is a competition rule subject to judicial review as specified in PURA §39.001(e). Project Number 31853 is assigned to this proceeding.

Annette Lown Mass, Legal Division, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Mass has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be the ability of victims of domestic violence and the elderly in poverty who are unable to pay a deposit, to choose among all REPs serving their geographic area rather than accepting service from their affiliated REP or POLR.

The commission is not aware of any adverse economic effect on small businesses or micro-businesses as a result of enforcing this section.

There may be economic costs to persons who are required to comply with the proposed section. These costs are the result of waiving the deposits for customers who meet the criteria. However, it is believed that the benefits accruing from implementation of the proposed section will outweigh these costs.

Ms. Mass has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under 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. The request for a public hearing must be received within 30 days after publication.

Comments on the proposed amendment 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 30 days after publication. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted

within 45 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule(s). The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 31853.

The commission proposes this rule amendment pursuant to the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998 & Supplement 2005) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically pursuant to PURA §39.101, which grants the commission authority to establish various, specific protections for retail customers; PURA §39.102, which provides for retail customer choice; and PURA chapter 17, subchapters A, C and D, which deal, respectively, with general provisions relating to customer protection policy, the retail customer's right to choice, and protection of the retail customer against unauthorized charges.

Cross Reference to Statutes: PURA §§14.002, 39.101, 39.102, and PURA chapter 17, subchapters A, C and D.

§25.478. Credit Requirements and Deposits.

(a) **Credit requirements for residential customers.** A retail electric provider (REP) may require a residential customer or applicant to establish and maintain satisfactory credit as a condition of providing service pursuant to the requirements of this section.

(1) – (2) (No change.)

(3) A residential customer or applicant seeking to establish service with an affiliated REP or provider of last resort (POLR) can demonstrate satisfactory credit using one of the criteria listed in subparagraphs (A) through (E) of this paragraph. ~~A REP other than an affiliated REP or POLR may establish other criteria by which a customer or applicant can demonstrate satisfactory credit, so long as such criteria are not discriminatory pursuant to §25.471(e) of this title (relating to General Provisions of Customer Protection Rules).~~

(A) – (E) (No change.)

(4) A residential customer or applicant seeking to establish service with a REP other than an affiliated REP or POLR can demonstrate satisfactory credit using one of the criteria listed in subparagraphs (A) through (B) of this paragraph. A REP other than an affiliated REP or POLR may establish additional methods by which a customer or applicant not meeting the criteria of subparagraphs (A) or (B) of this paragraph can demonstrate satisfactory credit, so long as such criteria are not discriminatory pursuant to §25.471(c) of this title (relating to General Provisions of Customer Protection Rules).

- (A) The residential customer or applicant is 65 years of age or older and the customer is not currently delinquent in payment of any electric service account.
- (B) The customer or applicant has been determined to be a victim of family violence as defined in the Texas Family Code §71.004, by a family violence center as defined in Texas Human Resources Code §51.002, by treating medical personnel, by law enforcement personnel, by the Office of a Texas District Attorney or County Attorney, by the Office of the Attorney General, or by a grantee of the Texas Equal Access to Justice Foundation. This determination shall be evidenced by submission of a certification letter developed by the Texas Council on Family Violence. The certification letter may be submitted directly by use of a toll-free fax number to the REP.
- (5) ~~(4)~~ Pursuant to the Public Utility Regulatory Act (PURA) §39.107(g), a REP that requires pre-payment for metered residential electric service may not charge an amount for electric service that is higher than the price charged by the POLR in the applicable transmission and distribution service territory.
- (6) ~~(5)~~ The REP may obtain payment history information from any REP that has served the applicant in the previous two years or from a consumer reporting agency, as defined by the Federal Trade Commission. The REP shall obtain the customer's or applicant's authorization prior to obtaining such information from the customer's or applicant's prior REP. A REP shall maintain payment history information for two years after a customer's electric service has been terminated

or disconnected in order to be able to provide credit history information at the request of the former customer.

(b) – (l) (No change.)

~~(m) — 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 23rd DAY OF MARCH 2006 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**