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Public Utility Commission of Texas

May 22, 2020

Dear Subscriber:

Enclosed are two new rules as recently adopted:

Chapter 25 — Substantive Rules Applicable to Electric Service Providers.

<u>Project</u>	<u>Section</u>	<u>Title</u>	<u>Action</u>	<u>Effective Date</u>
		Table of Contents	Amended page XII-XIII and XLIV-XLVI	
49794	§25.112	Registration of Brokers	New	5/24/20
49794	§25.486	Customer Protections for Brokerage Services	New	5/24/20
		Appendix III	Amended	

Please place the amended rule in your rulebooks in the appropriate order. The order adopting the rule can be found on the Commission's Interchange System.

If you have any questions, please call (512) 936-7244 or e-mail andrea.gonzalez@puc.texas.gov. Thank you.



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Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§25.112 Registration of Brokers.

- (a) **Registration required.** A person must not provide brokerage services, including brokerage services offered online, in this state for compensation or other consideration unless the person is registered with the commission as a broker. A broker is responsible for all activities conducted on its behalf by any subcontractor or agent. A retail electric provider (REP) is not permitted to register as a broker and must not knowingly provide bids or offers to a person who provides brokerage services in this state for compensation or other consideration and is not registered as a broker. A REP may rely on the publicly available list of registered brokers posted on the commission's website to determine whether a broker is registered with the commission.
- (b) **Definitions.** The following terms, when used in this section, have the following meanings unless the context indicates otherwise:
- (1) **Broker** -- A person that provides brokerage services.
 - (2) **Brokerage services** -- Providing advice or procurement services to, or acting on behalf of, a retail electric customer regarding the selection of a REP, or a product or service offered by a REP.
- (c) **Requirements for a person seeking to register as a broker.** A person seeking to register under this section must provide the information listed in this subsection.
- (1) All business names of the registrant limited to five business names;
 - (2) The mailing address, telephone number, and email address of the principal place of business of the registrant;
 - (3) The name, title, business mailing address, telephone number, and email address for the registrant's commission contact person;
 - (4) The name, title, business mailing address, telephone number, and email address of the registrant's customer service contact person;
 - (5) The name, title, business mailing address, telephone number, and email address of the registrant's commission complaint contact person;
 - (6) The form of business being registered (e.g., corporation, partnership, or sole proprietor); and
 - (7) An affidavit from the owner, partner, or officer of the registrant affirming that the registrant is authorized to do business in Texas under all applicable laws and is in good standing with the Texas Secretary of State; that all statements made in the application are true, correct, and complete; that any material changes in the information will be provided in a timely manner; and that the registrant understands and will comply with all applicable law and rules.
- (d) **Registration procedures.** The following procedures apply to a person seeking to register as a broker:
- (1) A registration application must be made on the form approved by the commission, verified by notarized oath or affirmation, and signed by an owner, partner, or officer of the registrant. The form may be obtained from the central records division of the commission or from the commission's Internet site. Each registrant must file its registration application form with the commission's filing clerk in accordance with the commission's procedural rules.
 - (2) The registrant must promptly inform the commission of any material change in the information provided in the registration application while the application is being processed.
 - (3) An application will be processed as follows:
 - (A) Commission staff will review the submitted form for completeness. Within 20 working days of receipt of an application, the commission staff will notify the registrant by mail or e-mail of any deficiencies in the application. The registrant will have ten working days from the issuance of the notification to cure the deficiencies. If the deficiencies are not cured within ten working days, commission staff will notify the registrant that the registration application is rejected without prejudice.
 - (B) Commission staff will determine whether to accept or reject the application within 60 days of the receipt of a complete application.
 - (C) An applicant may contest commission staff's rejection of its application by filing a petition for formal review of the registration application in accordance with the

commission's procedural rules. The registrant has the burden of proof to establish that its application meets the requirements of PURA and commission rules.

- (e) **Registration Update.** Unless updated, a broker registration expires three years after the date of the assignment of a broker registration number or the registration's most recent update. Each registrant must submit the information required to update its registration with the commission not less than 90 days prior to the expiration date of the current registration. An expired registration is no longer valid, and the broker will be removed from the broker list on the commission's website.
- (f) **Registration Amendment.** A broker must amend its registration to reflect any changes in the information previously submitted, including business name, mailing address, email address, or telephone number within 30 calendar days from the date of the change. This amendment is an update under (e) of this section.
- (g) **Suspension and Revocation of Registration and Administrative Penalty.** The commission may impose an administrative penalty for violations of PURA or commission rules. The commission may also suspend or revoke a broker's registration for significant violations of PURA or commission rules. Significant violations include, but are not limited to, the following:
 - (1) providing false or misleading information to the commission;
 - (2) engaging in fraudulent, unfair, misleading, deceptive or anti-competitive practices;
 - (3) a pattern of failure to meet the requirements of PURA, commission rules, or commission orders;
 - (4) failure to respond to commission inquiries or customer complaints in a timely fashion;
 - (5) switching or causing to be switched the REP of a customer without first obtaining the customer's authorization; or
 - (6) billing an unauthorized charge or causing an unauthorized charge to be billed to a customer's retail electric service bill.

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§25.486 Customer Protections for Brokerage Services.

- (a) **Applicability.** This section applies to all brokers.
- (b) **Definitions.** The following terms, when used in this section, have the following meanings unless the context indicates otherwise:
- (1) **Broker** -- As defined in §25.112 of this title (relating to Registration of Brokers).
 - (2) **Brokerage services** -- As defined in §25.112 of this title.
 - (3) **Client** -- A person who receives or solicits brokerage services from a broker.
 - (4) **Client agent** -- A broker who has the legal right and authority to act on behalf of a client regarding the selection of, enrollment for, or contract execution of a product or service offered by a retail electric provider (REP), including electric service.
 - (5) **Proprietary client information** -- Any information that is compiled by a broker on a client or retail electric customer that makes possible the identification of any individual client or retail electric customer by matching such information with the client's or customer's name, address, retail electric account number, type or classification of retail electric service, historical electricity usage, expected patterns of use, types of facilities used in providing service, individual retail electric or brokerage services contract terms and conditions, price, current charges, billing records, or any information that the client or customer has expressly requested not be disclosed. Information that is redacted or organized in such a way as to make it impossible to identify the client or customer to whom the information relates does not constitute proprietary client information.
- (c) **Voluntary Alteration of Customer Protections.** A client other than a residential or small commercial class customer or applicant, or a non-residential customer or applicant whose load is part of an aggregation in excess of 50 kilowatts, may agree to a different level of customer protections related to the provision of brokerage services than is required by this section. Any such agreements do not change the level of customer protections a client is entitled to relating to the provision of retail electric service. Any agreements containing a different level of protections from those required by this section must be in writing and provided to the client. Copies of such agreements must be provided to commission staff upon request.
- (d) **Broker Communications.**
- (1) All written, electronic, and oral communications, including advertising, websites, direct marketing materials, and billing statements produced by a broker must be clear and not misleading, fraudulent, unfair, deceptive, or anti-competitive. Prohibited communications include, but are not limited to:
 - (A) Stating, suggesting, implying or otherwise leading a client to believe that receiving brokerage services will provide a customer with more reliable service from a transmission and distribution utility (TDU);
 - (B) Falsely suggesting, implying or otherwise leading a client to believe that a person is a representative of a TDU, REP, aggregator, or another broker;
 - (C) Falsely stating or suggesting that brokerage services are being provided without compensation; and
 - (D) Falsely claiming to be the client agent of a customer or applicant.
 - (2) All printed advertisements, electronic advertising over the Internet, and websites must include the broker's registered name.
- (e) **Language Requirements.** A broker must offer customer service and any information required by this section to a client in the language used to market the broker's products and services to that client.
- (f) **Required Disclosures.** A broker must inform a client of the following prior to the initiation of brokerage services, the renewal of those services, or a material change in the services provided, or the terms and conditions of those services:
- (1) The broker's registered name, business mailing address, and contact information;

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- (2) The broker's commission registration number;
 - (3) The registered name of any REP that is an affiliate of the broker;
 - (4) A clear description of the services the broker will provide for the client.
 - (5) The duration of the agreement to provide brokerage services, if applicable;
 - (6) A description of how the broker will be compensated for providing brokerage services and by whom;
 - (7) How the client can terminate the agreement to provide brokerage services, if applicable;
 - (8) The amount of any fee or other cost the client will incur for terminating the agreement to provide brokerage services, if applicable; and
 - (9) The commission's telephone number and email address for complaints and inquiries.
- (g) **Client Agent Requirements.**
- (1) An agreement between a broker and a client that authorizes the broker to act as a client agent for the client must be in writing.
 - (2) In addition to the requirements of subsection (f) of this section, a broker that acts as a client agent for the client must inform the client of the following:
 - (A) A clear description of the actions the broker is authorized to take on the client's behalf;
 - (B) The duration of the agency relationship;
 - (C) How the client can terminate the agency agreement;
 - (D) The amount of any fee or other cost the client will incur for terminating the agency agreement; and
 - (E) How the client's customer data, including proprietary client information, and account access information will be used, protected, and retained by the broker and disposed of at the conclusion of the agency relationship.
 - (3) A broker that is authorized to act as a client agent for the client must provide evidence of that authority upon request of the client, commission staff, or a REP with which the broker seeks to enroll the client.
 - (4) For purposes of §25.474 of this title (relating to Selection of Retail Electric Provider), a REP may rely upon the representations made by a client agent provided that the client agent is registered with the commission and provides evidence of agency authority.
- (h) **Unauthorized Charges and Unauthorized Changes of Retail Electric Provider.**
- (1) Unauthorized charges. A broker must not bill an unauthorized charge or cause an unauthorized charge to be billed to a customer's retail electric service bill.
 - (2) Unauthorized service changes. A broker must not switch or cause to be switched the REP of a customer without first obtaining the customer's authorization.
- (i) **Discrimination Prohibited.** A broker must not unduly refuse to provide brokerage services or otherwise unduly discriminate in the provision of brokerage services to any client because of race, creed, color, national origin, ancestry, sex, marital status, source or level of income, disability, or familial status; or refuse to provide brokerage services to a client because the client is located in an economically distressed geographic area or qualifies for low-income affordability or energy efficiency services; or otherwise unreasonably discriminate on the basis of the geographic location of a client.
- (j) **Proprietary Client Information.**
- (1) A broker must not release proprietary client information to any person unless the client authorizes the release in writing. This prohibition does not apply to the release of such information to the commission.
 - (2) A broker is not permitted to sell, make available for sale, or authorize the sale of any client-specific information or data obtained unless the client authorizes the sale in writing.
- (k) **Client Access and Complaint Handling.**
- (1) **Client Access.** Each broker must ensure that clients have reasonable access to its service representatives to make inquiries and complaints, discuss charges on bills or any other aspect of

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the brokerage services provided to the client by the broker, terminate an agreement to provide services, and transact any other pertinent business. A broker must promptly investigate client complaints and advise the complainant of the results. A broker must inform the complainant of the commission's informal complaint resolution process and the following contact information for the commission within 21 days of receiving the complaint: Public Utility Commission of Texas, Customer Protection Division, P.O. Box 13326, Austin, Texas 78711-3326; (512) 936-7120 or in Texas (toll-free) 1-888-782-8477, fax (512) 936-7003, e-mail address: customer@puc.texas.gov, Internet website address: www.puc.texas.gov, TTY (512) 936-7136, and Relay Texas (toll-free) 1-800-735-2989.

- (2) **Complaint Handling.** A client has the right to make a formal or informal complaint to the commission. A broker may not use a written or verbal agreement with a client to impair this right for a client that is a residential or small commercial customer. A broker must not require a client that is a residential or small commercial customer to engage in alternative dispute resolution, including requiring complaints to be submitted to arbitration or mediation by third parties.
 - (3) **Informal Complaints.**
 - (A) A person may file an informal complaint with the commission by contacting the commission at: Public Utility Commission of Texas, Customer Protection Division, P.O. Box 13326, Austin, Texas 78711-3326; (512) 936-7120 or in Texas (toll-free) 1-888-782-8477, fax (512) 936-7003, e-mail address: customer@puc.texas.gov, Internet website address: www.puc.texas.gov, TTY (512) 936-7136, and Relay Texas (toll-free) 1-800-735-2989.
 - (B) A complaint should include the following information, as applicable:
 - (i) The complainant's name, billing and service address, telephone number and email address, if any;
 - (ii) The name of the broker;
 - (iii) The broker's registration number;
 - (iv) The name of any relevant REP;
 - (v) The customer account number or electric service identifier;
 - (vi) An explanation of the facts relevant to the complaint;
 - (vii) The complainant's requested resolution; and
 - (viii) Any documentation that supports the complaint.
 - (C) The commission will forward the informal complaint to the broker.
 - (D) The broker must investigate each informal complaint forwarded to the broker by the commission and advise the commission in writing of the results of the investigation within 21 days after the complaint is forwarded to the broker by the commission.
 - (E) The commission will review the complaint information and the broker's response and notify the complainant of the results of the commission's investigation.
 - (F) The broker must keep a record for two years after receiving notification by the commission that the complaint has been closed. This record must show the name and address of the complainant, the date, nature, and outcome of the complaint.
 - (G) While an informal complaint process is pending, the broker must not initiate collection activities, including a report of the customer's delinquency to a credit reporting agency, with respect to the disputed portion of the bill.
 - (4) **Formal Complaints.** If the complainant is not satisfied with the results of the informal complaint process, the complainant may file a formal complaint with the commission within two years of the date on which the commission closes the informal complaint. Formal complaints will be docketed as provided in the commission's procedural rules.
- (l) **Record Retention.**
 - (1) A broker must establish and maintain records and data that are sufficient to:
 - (A) Verify its compliance with the requirements of any applicable commission rules; and
 - (B) Support any investigation of customer complaints.
 - (2) All records required by this section must be retained for no less than two years, unless otherwise specified.

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- (3) Unless otherwise prescribed by the commission or its authorized representative, all records required by this subchapter must be provided to the commission within 15 calendar days of its request.

**APPENDIX III
CHAPTER 25
RECORDS, REPORTS, AND OTHER INFORMATION
THAT MAY BE REQUIRED**

This appendix lists other sections of the commission's Substantive Rules, in addition to those found in Chapter 25, Subchapter D, that contain additional requirements for records, reports, and other required information that electric utilities, apartment owners or other persons may be required to provide to the commission. This appendix is to assist persons in locating the requirements. Failure to list a requirement in this appendix does not relieve the person responsible for filing the information of the requirement.

DESCRIPTION OF RECORD	RULE LOCATION
Records of deposit	§25.24(i)
Billing information	§25.25
Written plan for Spanish Language requirements	§25.26(b)
Documentation of switchovers	§25.27(c)
Record of complaints	§25.30(c)(3)
Maps and description of all electric utility facilities	§25.31(b)(4)
Customer information packets	§25.31(c)
Price to beat filing requirements	§25.41(f)(1)(C), (f)(3)(A) and (D), and (I)
Quarterly reports beginning January of each year - reporting customer information	§25.43(s)(1)-(3)
Voltage surveys	§25.51(e)(2)
Record of interruption	§25.52(d)
Summary Report of significant interruptions	§25.52(e)
Emergency Operations Plan	§25.53
Report on Change in Control, Sale of Property, Purchase of Stock, or Loan	§25.74
Quarterly Wholesale Electricity Transaction Information	§25.93
Electric utility's report on utility's activities by May 1 of each year	§25.94
Storm Hardening Plan Summary shall be filed and updated at least every five years	§25.95(d)
Vegetation Management report due May 1 of each yr.	§25.96(f)
Employee Training Report	§25.97(d)
Five Year Report	§25.97(e)
Annual Report	§25.97(f)
All new electric transmission lines shall be reported to the Commission	§25.101(b)(3)

DESCRIPTION OF RECORD	RULE LOCATION
Repair or construction of transmission facilities due to emergency operations shall be reported to the Commission	§25.101(c)(3)
Routine activities associated with transmission facilities shall be reported to the Commission	§25.101(c)(5)
Power Marketers: Registration or Proof that Registered with FERC; initial information	§25.105(b)(2), (c) and (d)
Quarterly financial information demonstrating continued compliance with (f)(4)	§25.107(f)(4)
Requirements for reporting and changing the terms of a retail electric provider certificate	§25.107(i)
Post-registration requirements for self-generators and power generation companies	§25.109(g) and (h)
Post-registration requirements for aggregators	§25.111(i)
Requirements for a person seeking to register as a broker	§25.111(c)
Meter Records	§25.122
Records of certifications and calibrations	§25.124(d)(5)
Report detailing meter tampering due April 1 of each calendar year	§25.125(e)
Report detailing meter tampering due April 1 of each calendar year	§25.126(i)
Record of station output and purchases of energy	§25.127(b)
Record of automatic circuit breaker operations	§25.128(b)
Each TDU shall retain the signed, written acknowledgement for at least two years after a non-standard meter is removed from a customer's premises	§25.133(d)(1)(D)
Maintain records and reports re: billing from the utility to the apartment house owner, calculation of the average cost per billing unit	§25.141(c)
Maintain records and reports re: billing from the utility to the apartment owner, calculation of the average cost per billing unit, all submeter readings and test results and tenant billings	§25.142(c)
Annual reports on new generating facilities owned or operated in Texas	§25.172(h)
Annual report by program administrator pertaining to renewable energy power generators and retail entities	§25.173(g)(11)
Energy efficiency plans and reports shall be filed by April 1 of each year	§25.181(l)
Evaluation, measurement, and verification (EM&V) contractor's report	§25.181(o)

DESCRIPTION OF RECORD	RULE LOCATION
Reporting and evaluation of energy efficiency programs	§25.183
Tariff for wholesale transmission service at distribution level voltage	§25.191(d)(2)(C)
Current year's average 4CP demand for each DSP	§25.192(d)
TSPs shall file reports that will permit the Commission to monitor their transmission costs and revenues	§25.192(h)(7)
Semi-annual reports required to monitor costs recovered through the TCRF clause	§25.193(e)
Contracts for all new interconnection agreements	§25.195(e)
Pre-Interconnection studies for network interconnection of distribution generation	§25.211(i)
Designation of utility's dist. gen. contact person	§25.211(l)(2)
Reporting requirements for applications received for interconnection and parallel operation of distributed generation	§25.211(n)
Testing of protection systems – Customer will maintain records of maintenance activities and a log of generator operations for generation systems greater than 500 kW.	§25.212(i)
T&D utilities shall file tariffs for metering within 60 days of effective date	§25.213(b)(7)
Electric utility costs separation compliance filing	§25.221(d) and (e)
Descriptions of energy services	§25.223(f)
Tariff to implement service request by General Land Office	§25.227(e)
Monthly reports containing all information required to monitor monthly fuel-related costs and revenues, ...	§25.235(c)
Petitions to revise fuel factors.	§25.237(d)
Monthly reports of PCRf over- and under-recovery amounts until no amounts remain	§25.238(k)
Tariffs	§25.241
Rates for sales to qualifying facilities	§25.242(d)(2)
Data requests for large electric utilities (avoided costs, addition of capacity, estimated capacity costs, etc.)	§25.242(e)(2) and (4)
Specific requirements for small electric utilities (avoided costs, capacity, etc.)	§25.242(e)(3)
Financial and operating reports pursuant to §25.73	§25.243(h)
Affidavit certifying that the TDU has accurately	§25.244(d)

DESCRIPTION OF RECORD	RULE LOCATION
identified and billed nonresidential secondary service customers who cannot be charged a demand ratchet	
Rate filing package	§25.246(c)(1)
Rate filing package	§25.247(b)
Filing requirement for non-investor-owned transmission service providers: complete application for either a comprehensive transmission cost of service review or an interim update	§25.247(d) and (e)
Report to renewable energy tariff subscribers	§25.251(h)
Customer education program for renewable energy	§25.251(j)
Request for approval of environmental clean-up cost effectiveness determinations	§25.261(e)
Obligation to file a true-up proceeding	§25.263(d)
REPs shall provide information to the independent third party as needed for calculations of true-up of PTB revenues	§25.263(j)(6)
Accounting policies and procedures that assure the electric utility is adequately compensated by the holding company or affiliate	§25.271(c)(2)(E)
Notice of conflict with FERC or SEC orders or regulations regarding Code of Conduct	§25.272(b)(3)
Update to affiliate's internal code of conduct and compliance plan	§25.272(i)(2)
Code of Conduct compliance audits	§25.272(i)(3)
Code of Conduct informal complaint procedure	§25.272(i)(4)
Notice of conflicts with FERC or SEC orders or regulations regarding contracts between electric utilities and competitive affiliates	§25.273(b)(3)
Contracts with competitive affiliates	§25.273(e)
Written declaration of structural or functional unbundling	§25.275(b)(2)
Report of total metered electric energy delivered through TDBU's system (annual filing)	§25.275(b)(6)
Annual report of code-related activities	§25.275(d), including information in (e),(f), (n)(2)(E), and (o)(1)(h)
Report of deviations from code of conduct	§25.275(g)
Employee transfers and temporary assignments	§25.275(i)(2)(C) and (D)
Separate books and records	§25.275(i)(4)
Notice of newly created affiliates	§25.275(h)
Notice of provision of aggregate customer information	§25.275(l)(2)

Code implementation filing	§25.275(n)(1)
Complaint procedure	§25.275(n)(2)
Records of transactions involving competitive energy-related activities	§25.275(o)(1)(D)
Reporting and auditing requirements	§25.275(o)(3)
Agreements between electric utilities and institutional trustees or investment managers	§25.301(b)(3)
Cost study and funding analysis	§25.303(f)(2)
Annual report due on May 15 of each year on status of Decommissioning Trust Fund	§25.303(f)(6)
Annual report due by May 1 of each year on status and administration of trusts	§25.304(g)
Business separation plan	§25.342(c) and (e)
Petitions relating to the provisions of competitive energy services	§25.343(d)
Filing requirements for competitive energy services	§25.343(e)
Cost separation	§25.344(c)
Recovery of stranded costs	§25.345(g)
Allocation of stranded costs	§25.345(h)
Persons owning or operating new on-site generation or eligible on-site generation shall file information required by §25.105	§25.345(i)(6)
Annually - TSPs and transmission service customers in the ERCOT region shall provide to ERCOT historical information concerning peak loads and resources connected to the TSPs system	§25.361(h)
ERCOT annual report, operations report and plan, quarterly report, emergency, and meeting periodicity report as listed in subsection (i).	§25.362(i)
Utilities' annual report due January 31 st of each year reporting completion of items required.	§25.422(f)
Reporting by market participants and independent organizations (status reports due)	§25.431(j)(3)
Retail competition pilot project compliance filings	§25.431(l)
System benefit fee annual report	§25.457(g)
Monthly activity report of discounts or bill payment assistance in order to request reimbursement	§25.457(j)
Two monthly reports: 1) amount of system benefit fee collected and paid by the entity's retail customers; and 2) amount of system benefit fee paid by the transmission and distribution only customers	§25.457(k)
Record retention requirements	§25.474(i)
Performance reports showing actual and estimated	§25.474(p)(3)

meter reads, etc.	
Records of deposits	§25.478(h)
Annual reporting requirement	§25.480(n)
Record of customer notifications	§25.484(g)
Record of all telephone numbers contacted or attempted to contact for telemarketing purposes	§25.484(i)
Language requirements	§25.486(e)
Required disclosures	§25.486(f)
Client agent requirements	§25.486(g)
Record retention	§25.486(l)
Success rate in processing standard electronic move-in requests for residential customers; and success rate in processing requests for reconnection of electric service	§25.490(c)
Retail electric provider annual reports	§25.491(c)
TDU shall report to the commission by March 1 of each year beginning in 2012, the number of customers for each type of customer and number of applications rejected as a result of incomplete forms, the number of requests from REPs for disconnection, and the number of disconnections and reconnections completed.	§25.497(i)
Records relative to market participants' activities in the ERCOT	§25.503(n)(2)
Resource and transmissions information shall be provided to ERCOT	§25.505(e)
Non-compliance report and record	§25.507(f)
Report due April 15 of each yr. - number of MW procured in each period, total dollar amount spent, the number and level of EEA events and the number of duration of deployments	§25.507(g)