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 JIM WRIGHT, *COMMISSIONER*



ALEXANDER C. SCHOCH, *GENERAL COUNSEL*

RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

MEMORANDUM

TO: Chairman Christi Craddick
 Commissioner Wayne Christian
 Commissioner Jim Wright

FROM: Haley Cochran, Assistant General Counsel

THROUGH: Alexander C. Schoch, General Counsel

DATE: September 19, 2023

SUBJECT: Proposed New 16 TAC §7.480, relating to Energy Conservation Programs, and Proposed Amendments to 16 TAC §7.460

September 19, 2023		
Approved	Denied	Abstain
DS DS DS 		

Attached is Staff’s recommendation to propose new 16 Texas Administrative Code §7.480, relating to Energy Conservation Programs, and propose amendments to §7.460, relating to Suspension of Gas Utility Service Disconnection During an Extreme Weather Emergency.

Staff proposes the new rule pursuant to House Bill 2263, 88th Legislative Session (2023) which added new Subchapter J, Natural Gas Energy Conservation Programs, in Chapter 104, Texas Utilities Code. The amendments to §7.460 are proposed pursuant to Texas Utilities Code §105.023, which requires the Commission to adopt a classification table to guide courts in issuing civil penalties against gas utilities who disconnect service to residential customers during an extreme weather emergency.

Staff requests the Commission’s approval to publish the proposed amendments in the *Texas Register* for public comment. If approved at conference on September 19th, the proposal should appear in the October 6th issue of the *Texas Register*. The proposal and an online comment form would also be made available on the Commission’s website, giving interested persons more than two additional weeks to review and submit comments to the Commission.

cc: Wei Wang, Executive Director
 Kari French, Director, Oversight and Safety Division
 Mark Evarts, Director, Gas Services Section
 Sarah Montoya-Foglesong, Director, Market Oversight Section
 Natalie Dubiel, Assistant General Counsel, Office of General Counsel

1 The Railroad Commission of Texas (Commission) proposes new §7.480 relating to Energy
2 Conservation Programs. The Commission proposes the new rule pursuant to House Bill 2263, 88th
3 Legislative Session (2023) which added new Subchapter J, Natural Gas Energy Conservation Programs,
4 in Chapter 104, Texas Utilities Code. The Commission also proposes amendments to §7.460 relating to
5 Suspension of Gas Utility Service Disconnection During an Extreme Weather Emergency, pursuant to
6 Texas Utilities Code §105.023, which requires the Commission to adopt a classification table to guide
7 courts in issuing civil penalties against gas utilities who disconnect service to residential customers during
8 an extreme weather emergency.

9 House Bill 2263 relates to energy conservation programs that may be offered by a local
10 distribution company (LDC) to its residential and commercial customers. Proposed new subsection (a)
11 explains the energy conservation program authority given to an LDC to offer such programs to current
12 and prospective residential and commercial customers. Subsection (a) also states that the Commission has
13 exclusive original jurisdiction over energy conservation programs implemented by LDCs. Further,
14 proposed subsection (a) states that a political subdivision shall not limit, restrict, or otherwise prevent an
15 eligible customer from participating in an LDC's programs based on the type or source of energy
16 delivered to the LDC's customers.

17 Proposed new subsection (b) defines administrative costs, Director, energy conservation program
18 (ECP), energy conservation program rate, Gas Services, local distribution company (LDC), ECP
19 portfolio, portfolio costs, and program year.

20 Proposed new subsection (c) lists the general requirements for an LDC to recover its costs of an
21 ECP if approved by the Commission. An LDC must apply for each service area in which it seeks to
22 implement an ECP. If the Commission approves the original application or approves an application with
23 modifications, the LDC may begin to recover costs prudently incurred to implement the portfolio. Costs
24 are subject to review by the Commission and may be refunded if imprudent or recovered from customers
25 without Commission approval.

26 Proposed new subsection (d) lists the contents of the application based on whether the application
27 is the LDC's initial or subsequent application for an ECP portfolio. Section 104.403 of the Texas Utilities
28 Code requires an LDC to apply to the Commission (1) before the LDC begins to recover ECP portfolio
29 costs; and (2) at least once every three years after the date the LDC first applies for cost recovery.
30 Proposed subsection (d)(1) lists the items to be included in the initial application and proposed subsection
31 (d)(2) lists the items to be included in the subsequent application. For its subsequent ECP portfolio
32 approvals, an LDC must file its application at least 90 days prior to the third anniversary of the LDC's

1 program year. Proposed subsection (d)(3) explains the process for an LDC to add new programs to its
2 existing ECP portfolio.

3 Proposed new subsection (e) requires an LDC to print the notice of its application for an ECP
4 portfolio in type large enough for easy reading and for that notice to be the only information contained on
5 the piece of paper, or in the emailed notice if applicable. The proposed new subsection requires the notice
6 to be provided in English and in Spanish, and the subsection lists the information that must be included in
7 the notice. The proposed new subsection further requires any promotional materials to be provided in
8 English and in Spanish.

9 Proposed new subsection (f) describes what the ECP portfolio must accomplish, including that it
10 be designed to overcome barriers to the adoption of energy-efficient equipment, technologies, and
11 processes, and to change customer behavior as necessary. The ECP portfolio may also include measures
12 such as direct financial incentives, technical assistance, discounts or rebates, and weatherization for low-
13 income customers.

14 Proposed new subsection (g) outlines the cost recovery mechanism. An LDC's application must
15 include the proposed ECP rate. The proposed new subsection specifies the limits of the cost recovery rate
16 and the administrative costs. Proposed subsection (g)(1) includes the formula LDCs must use to calculate
17 a separate ECP rate for each customer class. Upon Commission approval of an ECP rate, the LDC shall
18 update its residential and commercial tariffs to reflect the approved ECP rate.

19 Proposed new subsection (h) specifies the procedure for review by the Director of Gas Services to
20 ensure that ECP applications are reviewed for compliance with the rule and with Texas Utilities Code,
21 §§104.401-104.403. The Director shall prepare a written recommendation and provide it to the LDC; the
22 recommendation may include approval of the ECP application as filed, approval of the ECP application
23 with modifications, or rejection of the ECP application. The recommendation shall be submitted to the
24 Commission for decision at a scheduled open meeting. If the Commission approves an ECP portfolio at
25 an open meeting, the LDC shall file the applicable rate schedules in accordance with proposed new
26 subsection (i).

27 Proposed new subsection (i) requires an LDC to include proposed rate schedules with its
28 application for an ECP portfolio. If an LDC's proposed ECP portfolio is approved by the Commission,
29 the approved ECP rate schedule shall be electronically filed by the LDC in accordance with §7.315 of this
30 title (relating to Filing of Tariffs). An ECP rate approved by the Commission at an open meeting and
31 implemented by the LDC shall be subject to refund unless and until the rate schedule is electronically
32 filed and accepted by Gas Services.

1 Proposed new subsection (j) requires an LDC to file an annual ECP report each year an approved
2 ECP portfolio is implemented. The report shall be filed no later than 45 days following the end of the
3 LDC's program year. The proposed new subsection outlines the items to be included in the annual report
4 and prohibits the LDC from implementing any adjusted ECP rates until 30 days after submitting the
5 annual report.

6 Proposed new subsection (k) states the procedure for an LDC implementing an approved ECP
7 portfolio to reimburse the Commission for the LDC's share of the Commission's estimated costs related to
8 administration of reviewing and approving or denying cost recovery applications under this section. The
9 Director shall estimate the LDC's share of the Commission's annual costs related to the processing of
10 such applications. The LDC shall reimburse the Commission for the amount so determined within 30
11 days after receipt of notice of the reimbursement amount.

12 In conjunction with the proposed new rule, the Commission proposes amendments to §7.460(b).
13 Proposed amendments in subsection (b)(1) add a reference to Texas Utilities Code §105.023, which
14 provides that the Office of the Attorney General of Texas on its own initiative or at the request of the
15 Commission may file suit to recover a civil penalty for violation of Texas Utilities Code §104.258(c).
16 Section 105.023 requires that the Commission establish a classification system to be used by a court for
17 violations of §104.258(c) that includes a range of penalties that may be recovered for each class of
18 violations. Subsection (b)(1) includes the required classification table, outlining certain violation factors
19 and values for each factor to determine the dollar amount of penalties to be sought.

20 Mark Evarts, Director, Gas Services Section of the Oversight and Safety Division, has determined
21 that for each year of the first five years that the new rule and amendments will be in effect, there will be
22 no additional economic costs for persons required to comply with the proposed new §7.480 because
23 energy conservation programs are optional. Further, the classification system proposed in amendments to
24 §7.460 does not create new requirements for persons required to comply, but instead creates a range of
25 penalties for rule violators. The Commission notes that although the persons required to comply with new
26 §7.480 (i.e., LDCs) will not incur economic costs due to the rule, residential and commercial customers of
27 an LDC that implements an approved ECP will be required to pay a monthly charge associated with the
28 ECP. House Bill 2263 allows LDCs to implement that monthly charge.

29 Mr. Evarts has determined that for each year of the first five years that the new rule and
30 amendments will be in effect, there will be an estimated additional cost to state government as a result of
31 enforcing and administering new §7.480. However, proposed subsection (k) requires LDCs to reimburse
32 the Commission for costs incurred in reviewing ECP portfolio applications. There is no additional cost

1 estimated as a result of enforcing and administering §7.460. There will be no fiscal effect on local
2 government.

3 Mr. Evarts has determined that for each year of the first five years that the new rule and
4 amendments will be in effect, the public benefit will be implementation of required legislation.

5 In accordance with Texas Government Code, §2006.002, the Commission has determined there
6 will be no adverse economic effect on rural communities, small businesses or micro-businesses resulting
7 from the proposed new rule and amendments. As discussed above, there will be no additional economic
8 costs for persons required to comply as a result of adoption of the proposed new rule and amendments;
9 therefore, the Commission has not prepared the economic impact statement or the regulatory flexibility
10 analysis required under §2006.002.

11 The Commission has determined that the proposed rulemaking will not affect a local economy;
12 therefore, pursuant to Texas Government Code, §2001.022, the Commission is not required to prepare a
13 local employment impact statement for the proposed rules.

14 The Commission has determined that the proposed new rule and amendments do not meet the
15 statutory definition of a major environmental rule as set forth in Texas Government Code, §2001.0225;
16 therefore, a regulatory analysis conducted pursuant to that section is not required.

17 During the first five years that the rule and amendments would be in effect, the proposed new rule
18 and amendments would not: create or eliminate any employee positions; require an increase or decrease
19 in future legislative appropriations; increase fees paid to the agency; create a new regulation; increase or
20 decrease the number of individuals subject to the rule's applicability; expand, limit, or repeal an existing
21 regulation; or affect the state's economy. As discussed above, the proposed new rule creates a program
22 pursuant to HB 2263 to allow LDCs to apply for Commission approval of energy conservation programs,
23 and the proposed amendments clarify potential penalties for rule violators.

24 Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel,
25 Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at
26 <https://rrc.texas.gov/general-counsel/rules/comment-form-for-proposed-rulemakings/>; or by electronic
27 mail to rulescoordinator@rrc.texas.gov. The Commission will accept comments until 5:00 p.m. on
28 Wednesday, October 25, 2023. The Commission finds that this comment period is reasonable because the
29 proposal and an online comment form will be available on the Commission's web site more than two
30 weeks prior to *Texas Register* publication of the proposal, giving interested persons additional time to
31 review, analyze, draft, and submit comments. The Commission encourages all interested persons to
32 submit comments no later than the deadline. The Commission cannot guarantee that comments submitted

1 after the deadline will be considered. For further information, call the Gas Services Section at (512) 463-
2 7167. The status of Commission rulemakings in progress is available at [www.rrc.texas.gov/general-](http://www.rrc.texas.gov/general-counsel/rules/proposed-rules)
3 [counsel/rules/proposed-rules](http://www.rrc.texas.gov/general-counsel/rules/proposed-rules).

4 The Commission proposes the new rule and amendment pursuant to Texas Utilities Code,
5 §§104.401-104.403 and §105.023.

6 Statutory authority: Texas Utilities Code, §§104.401-104.403 and §105.023.

7 Cross-reference to statute: Texas Utilities Code, Chapters 104 and 105.

8
9 §7.480 Energy Conservation Programs.

10 (a) Energy conservation program authority. A local distribution company may offer to residential
11 and commercial customers and prospective residential and commercial customers and provide to those
12 customers an energy conservation program pursuant to this section and Texas Utilities Code, §§104.401-
13 104.403. The Commission has exclusive original jurisdiction over energy conservation programs
14 implemented by local distribution companies. A political subdivision served by a local distribution
15 company that implements an energy conservation program approved by the Commission pursuant to this
16 section shall not limit, restrict, or otherwise prevent an eligible customer from participating in the energy
17 conservation program based on the type or source of energy delivered to its customers.

18 (b) Definitions.

19 (1) Administrative costs--The costs of creating, managing, and administering an ECP
20 portfolio.

21 (2) Director--The Director of the Gas Services Department of the Oversight and Safety
22 Division or the Director's delegate.

23 (3) Energy conservation program (ECP)--A particular program that promotes energy
24 conservation or energy efficiency.

25 (4) Energy conservation program rate--The energy conservation program rate approved
26 by the Commission in the form of a monthly customer charge.

27 (5) Gas Services--The Gas Services Department of the Oversight and Safety Division of
28 the Commission.

29 (6) Local distribution company (LDC)--An investor-owned gas utility that operates a
30 retail gas distribution system.

1 (7) ECP Portfolio--The entire group of energy conservation programs offered by a local
2 distribution company as described subsection (f) of this section. The portfolio may consist of one or more
3 programs.

4 (8) Portfolio costs--Costs prudently incurred by an LDC to design, market, implement,
5 administer, and deliver an ECP portfolio that has been approved by the Commission, including but not
6 limited to payment of rebates, material costs, the costs associated with installation and removal of
7 replaced materials and/or equipment, and the cost of education and customer awareness materials related
8 to conservation or efficiency.

9 (9) Program year--The 12-month period beginning the first day of the month following
10 the Commission's approval of the program.

11 (c) General requirements.

12 (1) An LDC may recover costs of an ECP portfolio if it is approved by the Commission
13 pursuant to this section and the LDC complies with the approved ECP portfolio. An LDC seeking to
14 implement an ECP portfolio in one or more of its service areas shall apply with Gas Services and receive
15 a final order from the Commission before beginning to recover the costs.

16 (2) An LDC applying for an ECP portfolio shall submit an application for each service
17 area in which it seeks to implement an ECP.

18 (3) If the Commission approves the LDC's application or approves the application with
19 modifications, the LDC may recover costs prudently incurred to implement the ECP portfolio, including
20 costs incurred to design, market, implement, administer, and deliver the ECP portfolio. Any costs
21 included in an ECP portfolio approved by the Commission shall be fully subject to review by the
22 Commission for reasonableness and prudence. ECP costs that are imprudent or recovered from customers
23 without approval of the Commission are subject to refund as determined by the Commission.

24 (d) Contents of application. An LDC may apply for approval of an ECP portfolio by submitting
25 an application to Gas Services.

26 (1) Initial ECP portfolio application. An initial application for approval of an ECP
27 portfolio shall include:

28 (A) a list and detailed description of each proposed ECP;

29 (B) the objectives for each proposed ECP;

30 (C) the proposed annual budget for each ECP and the ECP portfolio;

31 (D) the proposed administrative costs for each ECP and the ECP portfolio;

32 (E) the proposed proportion of ECP portfolio costs to be funded by customers;

- 1 (F) the proposed proportion of ECP portfolio costs to be funded by shareholders;
2 (G) the projected annual consumption reduction per customer class for each ECP
3 and the ECP portfolio;
4 (H) the projected annual cost savings per customer class for each ECP and the
5 ECP portfolio;
6 (I) a copy of the notice to customers and an affidavit stating the method of notice
7 and the date or dates on which the notice was given;
8 (J) copies of written correspondence received by the LDC in response to the
9 notice;
10 (K) copies of any proposed advertisements or promotional materials that the
11 LDC intends to distribute to customers if an ECP portfolio is approved;
12 (L) copies of the proposed ECP rate schedule or schedules; and
13 (M) the name of the LDC's representative, business address, telephone number,
14 and email address.
15 (2) Subsequent ECP portfolio application. An LDC shall re-apply for approval of its ECP
16 portfolio every three years. The subsequent application shall be filed 90 days prior to the third anniversary
17 of the LDC's program year. A subsequent application for approval of an ECP portfolio shall include:
18 (A) a list and detailed description of each proposed ECP;
19 (B) the objectives for each ECP;
20 (C) the proposed annual budget for each ECP and ECP portfolio;
21 (D) the proposed administrative costs for each ECP and the ECP portfolio;
22 (E) the actual historical annual budget for each ECP and the ECP portfolio;
23 (F) the actual historical administrative costs for each ECP and the ECP portfolio;
24 (G) the proposed proportion of ECP portfolio costs to be funded by customers;
25 (H) the proposed proportion of ECP portfolio costs to be funded by shareholders;
26 (I) the projected and actual historical annual consumption reduction per customer
27 class for each ECP and the ECP portfolio;
28 (J) the projected and actual historical annual cost savings per customer class for
29 each ECP and the ECP portfolio;
30 (K) copies of any proposed advertisements or promotional materials that the
31 LDC intends to distribute to customers if the ECP portfolio is approved;
32 (L) copies of the proposed rate schedule or schedules;

1 (M) the name of the LDC's representative, business address, telephone number,
2 and email address; and

3 (N) if the LDC proposes a new ECP, or proposes changes to an existing ECP
4 such that costs to customers increase, the LDC shall provide notice in accordance with subsection (e) of
5 this section and include in its subsequent application the documents required by paragraph (1)(I) and (J)
6 of this subsection.

7 (3) Addition of new programs to existing ECP portfolio. An initial or subsequent
8 application may contain information on one or more ECPs. If an LDC proposes to add a new ECP to its
9 portfolio after approval of its initial application, the LDC shall propose the new ECP in its subsequent
10 application and include the information required by paragraph (1) of this subsection for the proposed new
11 ECP.

12 (e) Notice and promotional materials.

13 (1) Notice. An LDC shall print the notice of its application for an ECP portfolio in type
14 large enough for easy reading. The notice shall be the only information contained on the piece of paper on
15 which it is written or in the emailed notice if applicable. An LDC may give the notice required by this
16 section either by separate mailing or by otherwise delivering the notice with its billing statements. Notice
17 may be provided by email if the customer to receive the notice has consented to receive notices by email.
18 Notice by mail shall be presumed to be complete three days after the date of deposit of the paper upon
19 which it is written, enclosed in a postage-paid, properly addressed wrapper, in a post office or official
20 depository under the care of the United States Postal Service. The notice shall be provided in English and
21 Spanish. The notice to customers shall include the following information:

22 (A) a description of each ECP in its proposed portfolio;

23 (B) the effect the proposed ECP portfolio is expected to have on the rates
24 applicable to each affected customer class and on an average bill with and without gas cost for each
25 affected customer class;

26 (C) the service area or areas in which the proposed ECP portfolio would apply;

27 (D) the date the proposed ECP portfolio application was or will be filed with the
28 Commission;

29 (E) the LDC's address, telephone number, and web site where the application for
30 approval of an ECP portfolio may be obtained; and

1 (F) a statement that any affected person may file written comments or a protest
2 concerning a proposed ECP portfolio with Gas Services by email to MOS@rrc.texas.gov and to an email
3 address for the LDC company included in its notice.

4 (2) Promotional materials. Any promotional materials shall be provided to customers in
5 English and Spanish.

6 (f) Portfolio. An ECP portfolio:

7 (1) shall be designed to overcome barriers to the adoption of energy-efficient equipment,
8 technologies, and processes, and be designed to change customer behavior as necessary; and

9 (2) may include measures such as:

10 (A) direct financial incentives;

11 (B) technical assistance and information, including building energy performance
12 analyses performed by the LDC or a third party approved by the LDC;

13 (C) discounts or rebates for products; and

14 (D) weatherization for low-income customers.

15 (g) Cost recovery mechanism. The application for approval of an ECP portfolio shall include a
16 proposed ECP rate. Cost recovery shall be limited to the incremental costs of providing an ECP portfolio
17 that are not already included in the then-current cost of service rates of the LDC. Administrative costs in
18 excess of 15% of the total costs of the portfolio shall not be included in the ECP rate or recovered from
19 customers in any way.

20 (1) A separate ECP rate shall be calculated for each customer class in accordance with
21 the following formula: ECP rate = (CCR per Class + BA per Class)/Number of Annual Bills per Class,
22 where:

23 (A) CCR, Current Cost Recovery, is all projected costs attributable to the local
24 distribution company's energy conservation portfolio for the program year;

25 (B) BA, Balance Adjustment, is the computed difference between CCR
26 collections by class and expenditures by class, including the pro-rata share of common administrative
27 costs for each class for the program year and collection of the over/under recovery during the prior
28 program year; and

29 (C) Class is the customer class to which the ECP rate will apply.

30 (2) Upon the Commission's approval of the ECP rate, the LDC shall update its residential
31 and commercial tariffs to reflect the approved ECP rate.

1 (h) Procedure for review. The Director of Gas Services shall ensure that applications for ECP
2 portfolios are reviewed for compliance with the requirements of Texas Utilities Code, §§104.401-104.403
3 and this section. Upon completion of the review, Gas Services will prepare a written recommendation,
4 which shall be provided to the applicant LDC.

5 (1) The recommendation may include:

6 (A) approval of the application for an ECP portfolio as filed;

7 (B) approval of the application for an ECP portfolio with modifications; or

8 (C) rejection of the application for an ECP portfolio.

9 (2) The recommendation shall be submitted to the Commission for decision at a
10 scheduled open meeting.

11 (3) If the Commission approves an ECP portfolio at an open meeting, the LDC shall file
12 the applicable rate schedules implementing the ECP portfolio in accordance with subsection (i) of this
13 section.

14 (i) Rate schedules. The LDC shall include proposed rate schedules with its application for an ECP
15 portfolio. Each ECP rate schedule shall be made on a form approved by the Commission and made
16 available on the Commission's website. If the LDC's proposed ECP portfolio is approved by the
17 Commission, the approved rate schedules shall be electronically filed by the LDC in accordance with
18 §7.315 of this title (relating to Filing of Tariffs). An ECP rate approved by the Commission at an open
19 meeting and implemented by the LDC shall be subject to refund unless and until the rate schedules are
20 electronically filed and accepted by Gas Services in accordance with §7.315 of this title.

21 (j) ECP annual report.

22 (1) An LDC implementing an approved ECP portfolio pursuant to this section shall file
23 an ECP annual report with the Commission. The report shall be filed each year of an approved ECP
24 portfolio is implemented and shall be filed no later than 45 days following the end of the LDC's program
25 year. The ECP annual report shall be in the format prescribed by the Commission and shall include the
26 following:

27 (A) an overview of the LDC's ECP portfolio;

28 (B) a description of each ECP offered under the portfolio that includes the
29 program's performance for the preceding year, actual program expenditures, and program results;

30 (C) the LDC's planned ECPs for the upcoming year; and

1 (D) schedules detailing program expenditures for the program year, actual
2 amounts collected for the program year, and the calculation of the adjusted ECP rate for each applicable
3 customer class.

4 (2) The LDC shall not implement any adjusted ECP rates until 30 days after submitting
5 the annual report.

6 (k) Reimbursement. An LDC implementing an approved ECP portfolio pursuant to this section
7 shall reimburse the Commission for the LDC's share of the Commission's estimated costs related to
8 administration of reviewing and approving or denying cost recovery applications under this section. The
9 Director shall estimate the LDC's share of the Commission's annual costs related to the processing of
10 such applications. The LDC shall reimburse the Commission for the amount so determined within 30
11 days after receipt of notice of the amount of the reimbursement.

12
13
14 §7.460 Suspension of Gas Utility Service Disconnection During an Extreme Weather Emergency

15 (a) Applicability and scope. This rule applies to gas utilities, as defined in Texas Utilities Code,
16 §101.003(7) and §121.001, and to owners, operators, and managers of mobile home parks or apartment
17 houses who purchase natural gas through a master meter for delivery to a dwelling unit in a mobile home
18 park or apartment house, pursuant to Texas Utilities Code, §§124.001-124.002, within the jurisdiction of
19 the Railroad Commission pursuant to Texas Utilities Code, §102.001. For purposes of this section, all
20 such gas utilities and owners, operators and managers of master meter systems shall be referred to as
21 "providers." Providers shall comply with the following service standards. A gas distribution utility shall
22 file amended service rules incorporating these standards with the Railroad Commission in the manner
23 prescribed by law.

24 (b) Disconnection prohibited. Except where there is a known dangerous condition or a use of
25 natural gas service in a manner that is dangerous or unreasonably interferes with service to others, a
26 provider shall not disconnect natural gas service in the following circumstances. [~~to:~~]

27 (1) A provider shall not disconnect a delinquent residential customer during an extreme
28 weather emergency. An extreme weather emergency means a day when the previous day's highest
29 temperature did not exceed 32 degrees Fahrenheit and the temperature is predicted to remain at or below
30 that level for the next 24 hours according to the nearest National Weather Station for the county where the
31 customer takes service. In accordance with Texas Utilities Code §105.023, the Office of the Attorney
32 General of Texas on its own initiative or at the request of the Commission may file suit to recover a civil

1 penalty for a violation of this paragraph. The table in this paragraph contains a classification system to be
2 used by a court when such a suit is filed.

3 **Figure: 16 TAC §7.460(b)(1)**

4 (2) A provider shall not disconnect a delinquent residential customer for a billing period
5 in which the provider receives a written pledge, letter of intent, purchase order, or other written
6 notification from an energy assistance provider that it is forwarding sufficient payment to continue
7 service.~~]~~

8 (3) A provider shall not disconnect a delinquent residential customer on a weekend day,
9 unless personnel or agents of the provider are available for the purpose of receiving payment or making
10 collections and reconnecting service.

11 (c) Payment plans. Providers shall defer collection of the full payment of bills that are due during
12 an extreme weather emergency until after the emergency is over, and shall work with customers to
13 establish a payment schedule for deferred bills as set forth in §7.45 of this title (relating to Quality of
14 Service).

15 (d) Notice. Beginning in the September or October billing periods utilities and owners, operators,
16 or managers of master metered systems shall give notice as follows:

17 (1) Each utility shall provide a copy of this rule to the social services agencies that
18 distribute funds from the Low Income Home Energy Assistance Program within the utility's service area.

19 (2) Each utility shall provide a copy of this rule to any other social service agency of
20 which the provider is aware that provides financial assistance to low income customers in the utility's
21 service area.

22 (3) Each utility shall provide a copy of this rule to all residential customers of the utility
23 and customers who are owners, operators, or managers of master metered systems.

24 (4) Owners, operators, or managers of master metered systems shall provide a copy of
25 this rule to all of their customers.

26 (e) In addition to the minimum standards specified in this section, providers may adopt additional
27 or alternative requirements if the provider files a tariff with the Commission pursuant to §7.315 of this
28 title (relating to Filing of Tariffs). The Commission shall review the tariff to ensure that at least the
29 minimum standards of this section are met.

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

32 Issued in Austin, Texas on 9/19/2023, 2023.

Railroad Commission of Texas
16 TAC Chapter 7--Gas Services

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1 Filed with the Office of the Secretary of State on 9/19/2023, 2023.

DocuSigned by:

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Haley Cochran
Assistant General Counsel, Office of General Counsel
Railroad Commission of Texas

Figure: 16 TAC §7.460(b)(1)

Classification System

Violation Factors	Factor Value (1-4)	Points Tally
Customer is disconnected in violation of subsection (b)(1) of this section for 24 hours or more	4	
Customer is disconnected in violation of subsection (b)(1) of this section for less than 24 hours, but more than 12 hours	3	
Customer is disconnected in violation of subsection (b)(1) of this section for 12 hours or less	2	
The temperature is 10 degrees or less during the period of disconnection	4	
The temperature is more than 10 degrees but less than or equal to 20 degrees during the period of disconnection	3	
The temperature is more than 20 degrees but less than or equal to 32 degrees during the period of disconnection	2	
Repeat violations based on provider's history of compliance	3	
Good faith effort to remedy violation	-2	
No effort to remedy violation during the extreme weather emergency	4	
		Total
		Penalty maximum per violation
10 points or more = Class A violation		More than \$5,000 ¹
7-9 points = Class B violation		\$5,000
4-6 points = Class C violation		\$4,000
1-3 points = Class D violation		\$3,000

¹ Pursuant to Utilities Code §105.023(f), the required classification system shall provide that a penalty in an amount that exceeds \$5,000 may be recovered only if the violation is included in the highest class of violations in the classification system.