

**PROJECT NO. 36150**

**ISSUES RELATING TO THE  
DISASTER RESULTING FROM  
HURRICANE IKE**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER SUSPENDING CERTAIN RULES OF THE COMMISSION**

On Saturday, September 13, 2008, Hurricane Ike struck the Gulf Coast of Texas, causing significant damage in Southeast Texas. Many of the residents of this area were displaced by Hurricane Ike and have been evacuated or have relocated to other areas of Texas. Other residents remained in the area and have lost electric power and telephone service, and the delivery of other essential services has been interrupted or impaired. On September 8, 2008, Governor Perry issued a disaster proclamation relating to Hurricane Ike for specific counties in Texas. On September 12, Governor Perry issued a proclamation extending the disaster designation to additional counties. The disaster proclamations are effective September 7, 2008 and remain in effect for 30 days. Governor Perry's proclamation provides that "[all] rules and regulations that may inhibit or prevent prompt response to this threat are suspended for the duration of the incident." The Governor's proclamations are attached to this Order.

**I. Suspension or Waiver of Rules**

Pursuant to the Governor's Hurricane Ike disaster proclamations, the Commission finds that strict compliance with certain of its rules would prevent, inhibit or delay necessary action in coping with the disaster. Accordingly, the Commission is waiving the application of the rules listed in this order. The purpose of this action is to facilitate

customers' return to the areas affected by Hurricane Ike, if that is possible, and facilitate customers' access to electric service in other areas of Texas, if they are unable to return.

Pursuant to the Governor's proclamation, issued under Texas Government Code, §418.016 (Vernon 2000 & Supplement 2008), and the Commission's authority under the Public Utility Regulatory Act, including §§11.002, 14.001, 14.002, 14.005, 39.101 and 184.001-184.071 of the Texas Utilities Code Annotated (Vernon 2007 & Supplement 2008), the rules listed in this order are hereby suspended beginning on the date of this order, as they apply to persons who were adversely affected by Hurricane Ike (whether they have remained in those counties or evacuated to other areas of Texas as a result of the hurricane). The benefits and relief provided by this order are intended to assist those persons affected by Hurricane Ike. This order applies to residential service and non-profit entities that receive non-residential service and are providing assistance to persons who have been affected by Hurricane Ike.

Paragraph 5 applies to electric utilities providing service in the counties affected by Hurricane Ike or that have sent personnel to assist in the restoration of service in the counties affected by Hurricane Ike. These rules are waived, in recognition that (1) the utilities' priority in the wake of the hurricane is restoring service in the areas where transmission and distribution systems have been damaged or destroyed, (2) the timely reporting of performance measures may not be feasible and (3) holding the utilities accountable for some of the performance measures might impair the higher priority task of restoring service to customers who have lost it. Similarly, certain rate-filing procedures, reporting rules and performance measures are waived for

telecommunications providers under paragraphs 16-34 to facilitate the provision of low-cost service to customers.

As used in this order, evacuate means removal under governmental authority or voluntary removal from the areas affected by Hurricane Ike. As used in this order, the counties affected by Hurricane Ike are Angelina, Austin, Brazoria, Chambers, Cherokee, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Madison, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Rusk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Washington Counties. The suspension of rules in this order, unless otherwise noted, is effective for 30 days from the date of this order.

The application of the following rules is suspended:

1. P.U.C. SUBST. R. 25.23(a) and related provisions, insofar as they would permit electric utilities to refuse electric service for failure to pay a deposit. This paragraph is effective until October 10, 2008.
2. P.U.C. SUBST. R. 25.24, insofar as it would permit electric utilities to require customers to pay an initial or additional deposit or pay a deposit to establish temporary service or permit a utility to disconnect a customer for not paying an additional deposit. This paragraph is effective until October 10, 2008.
3. P.U.C. SUBST. R. 25.29(b)(4), insofar as it would permit electric utilities to disconnect electric service of persons or master-metered apartments if they fail to pay a deposit. This paragraph is effective until October 10, 2008.

4. P.U.C. SUBST. R. 25.29, insofar as it would permit electric utilities to disconnect electric service of persons or master-metered apartments for non-payment. This paragraph is effective until October 10, 2008.
5. P.U.C. SUBST. R. 25.88, insofar as it requires electric utilities to file reports of performance measures and adopt performance plans to remedy the failure to meet performance targets. The waiver of the filing requirement applies to any electric utility or retail electric provider that is unable to meet the November 14 filing deadline for 3rd quarter of 2008 and files a letter requesting an extension. A blanket two-week extension is granted to any utility or retail electric provider that files a letter requesting an extension. An extension beyond this date may be approved by the Executive Director. The waiver of the requirement to adopt performance plans to remedy the failure to meet performance targets applies to any utility that files a letter requesting a waiver that indicates that it is in an affected area or has sent personnel to assist in the restoration of service in an affected area. Letters relating to a waiver under this paragraph shall be filed in Project No. 36150.
6. P.U.C. SUBST. R. 25.141(e), insofar as it would allow the electric service of a tenant of a central system or non-submetered, master-metered apartment house to be disconnected for nonpayment. This paragraph is effective until October 10, 2008.
7. P.U.C. SUBST. R. 25.142(d), insofar as it would allow the electric service of a tenant of an apartment house or mobile-home park utilizing electrical sub-metering to be disconnected for nonpayment. This paragraph is effective until October 10, 2008.

8. P.U.C. SUBST. R. 25.214(d) and Section 4.7.2 of the Tariff for Retail Delivery Service, insofar as they would prohibit more than three consecutive estimates of a customer's electricity consumption.
9. P.U.C. SUBST. R. 25.214(d) and Section 4.7.2.2 of the Tariff for Retail Delivery Service, insofar as they would prohibit a utility from estimating consumption after three consecutive estimates of a customer's electricity consumption has occurred.
10. P.U.C. SUBST. R. 25.214(d), Section 6.1.2.1, Charge DCS.2 and DCS.6 of the CenterPoint Tariff for Retail Delivery Service and Section 6.1.2. of the Texas-New Mexico Power Company Tariff for Retail Delivery Service, insofar as they would permit a utility to assess a charge for a priority move-in or a higher charge for a reconnection of service on the day that the request is received or on a day that is not a normal business day.
11. P.U.C. SUBST. R. 25.477(a), insofar as it would permit retail electric providers to refuse electric service for failure to pay a deposit. This paragraph is effective until October 10, 2008.
12. P.U.C. SUBST. R. 25.478(c) and (d), insofar as it would permit retail electric providers to require persons to pay a deposit or additional deposit for electric service. This paragraph is effective until October 10, 2008.
13. P.U.C. SUBST. R. 25.483(c), insofar as it would permit retail electric providers to authorize a utility to disconnect electric service of persons for non-payment. This paragraph is effective until October 10, 2008.

14. P.U.C. SUBST. R. 25.483(c), insofar as it would permit retail electric providers to authorize a utility to disconnect electric service of persons for failure to pay a deposit. This paragraph is effective until October 10, 2008.
15. P.U.C. SUBST. R. 25.483(m), insofar as it would permit a retail electric provider to charge a priority reconnection fee to a customer in the CenterPoint or Texas-New Mexico Power Company service area.
16. P.U.C. SUBST. R. 26.25(b)-(f), insofar as it would require CTUs to issue or provide bills to customers if all charges that would have been on such bill have been waived.
17. P.U.C. SUBST. R. 26.31(a)(3) and (5), insofar as it would require CTUs to provide information or notice to customers in writing.
18. P.U.C. SUBST. R. 26.32(f) and (i), insofar as it would require CTUs to obtain customer consent or provide notice in writing.
19. P.U.C. SUBST. R. 26.54(c), insofar as it would require CTUs to comply with state-wide or exchange-specific service quality and performance objectives related to installation, repair and maintenance.
20. P.U.C. SUBST. R. 26.128(e), insofar as it would require CTUs to list the names, addresses and telephone numbers of all customers and provide directories to each customer served by the CTU.
21. P.U.C. SUBST. R. 26.171(c) and (d), insofar as it would require CTUs to provide a statement of intent or notice for rate decreases.
22. P.U.C. SUBST. R. 26.207, insofar as it would require CTUs to file tariffs or provide customer notice for rate decreases or discounted services.

23. P.U.C. SUBST. R. 26.208, insofar as it would require CTUs to file tariffs or provide customer notice for rate decreases or discounted services.
24. P.U.C. SUBST. R. 26.210(c)-(g), insofar as it would require CTUs to file for approval of promotional rates and provide notice of intent to file for approval of promotional rates, impose certain requirements for promotional rates, and require notification to the public of services offered at promotional rates.
25. P.U.C. SUBST. R. 26.211(c), insofar as it would require CTUs to flexibly price services under a certain set of conditions and terms.
26. P.U.C. SUBST. R. 26.224(d), (e), (i), and (k), insofar as it would require Chapter 58 CTUs to tariff and provide notice of rate decreases, prevent service provision below cost, and establish criteria for rate decreases.
27. P.U.C. SUBST. R. 26.225(d), insofar as it would require Chapter 58 CTUs to file tariffs and provide notice of rate decreases, prohibit the provision of service below cost, and establish criteria for rate decreases.
28. P.U.C. SUBST. R. 26.226(d), insofar as it would prevent a Chapter 58 CTU from providing service below cost.
29. P.U.C. SUBST. R. 26.227(c), insofar as it would require Chapter 58 CTUs to provide informational notice filings and provide notice related to pricing flexibility and non-basic services.
30. P.U.C. SUBST. R. 26.228(d), insofar as it would require Chapter 52 CTUs to provide informational notice filings and provide notice related to pricing flexibility and non-basic services.

31. P.U.C. SUBST. R. 26.229(d), insofar as it would require Chapter 59 CTUs to provide informational notice filings and provide notice related to pricing flexibility and non-basic services.
32. P.U.C. SUBST. R. 26.467(k)(3)(A)-(B), insofar as it would require CTUs to file quarterly access line count reports and compensate each municipality no later than 45 days from the end of the preceding calendar quarter for temporary customers.
33. P.U.C. SUBST. R. 26.467(m), insofar as it would permit CTUs to recover their municipal compensation from temporary customers by passing through the municipal fees to customers.
34. P.U.C. SUBST. R. 26.468, insofar as it addresses the enforcement relating to quarterly reporting for temporary-customer lines.

It is the Commission's intent that entities subject to the rules listed above notify all persons who have evacuated from affected areas as a result of Hurricane Ike who apply for electric or telecommunications service of the suspension of these rules, to the extent they may be relevant to the customer, at the time such persons apply for electric or telecommunications service. The Commission notes that many of those persons who have evacuated may have limited means of identifying themselves as having been displaced from their homes due to Hurricane Ike. A person who is adversely affected by Hurricane Ike is a person who (1) resides in the zip codes listed in Attachment A or in the Entergy service area in Chambers, Galveston, Orange, or Jefferson County or (2) resides in a county affected by Hurricane Ike and demonstrates that the person has been affected by, or evacuated as a result of, Hurricane Ike, based on evidence of residency in the affected area and documentation of the person's status as a claimant of benefits offered



by the Federal Emergency Management Agency, the Disaster Housing Assistance Program—Ike (a program being offered by the U.S. Department of Housing and Urban Development and the Federal Emergency Management Agency), the American Red Cross or other recognized charitable organization, or a state or local jurisdiction or agency or any other evidence of hurricane-related destruction of a person’s residence. However, retail electric providers are not precluded from making reasonable inquiry whether a person is entitled to the benefits of this order.

The Commission further notes that P.U.C. SUBST. R. 26.31(b)(1)(A) requires customers to be informed about the dominant CTU’s “lowest-priced alternatives, beginning with the least cost option.” The Commission also notes that the lowest-priced alternative may include Lifeline and Linkup. Telecommunications providers should seek to identify persons who are eligible for these benefits, in enrolling customers for new service. Similarly, retail electric providers should seek to identify persons who are eligible for the low-income discount, in enrolling customers for new service.

## **II. Retail Market Issues**

Hurricane Ike has resulted in significant damage to homes and businesses in areas that are open to retail competition, particularly in Galveston and other coastal communities. This order gives CenterPoint and Texas-New Mexico Power Company greater latitude to bill for electric delivery service using estimates of consumption, rather than actual meter reads. In estimating consumption, CenterPoint and Texas-New Mexico Power Company are ordered to use their best efforts to take into account the reductions in consumption that have resulted from the disruption in delivery of electricity that are a consequence of the damage caused by the hurricane, from customers’ evacuation and

from the damage to the premises where customers took service. In addition, market participants will use their best efforts to develop a procedure to expedite the processing of move-ins and move-outs in the CenterPoint and Texas-New Mexico Power Company service areas.

The operation of normal electric utility billing procedures and the Electric Reliability Council of Texas (ERCOT) wholesale settlement is likely to result in retail electric providers being charged for delivery service from an electric utility and energy and capacity charges from ERCOT in connection with premises that are not actually receiving electric service. CenterPoint and Texas-New Mexico Power Company are ordered to use their best efforts, without delaying restoration of service, to identify premises that are not capable of receiving electric service, to discontinue billing these premises for electric delivery service, without assessing a disconnection charge, and to take appropriate steps to notify ERCOT that the premises should not be included in the wholesale settlement.

ERCOT is ordered to take all reasonable and necessary steps to ensure that load reductions related to this disaster are reflected in the ERCOT wholesale settlement (including load profiles) as early as is practicable.

The Commission may, by subsequent order, extend the suspension of some or all of the rules referred to in this order pursuant to a renewal of the state of disaster established by proclamation of the Governor on September 8, 2008.

**SIGNED AT AUSTIN, TEXAS the \_\_\_\_\_ day of SEPTEMBER 2008.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**BARRY T. SMITHERMAN, CHAIRMAN**

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**DONNA L. NELSON, COMMISSIONER**

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**KENNETH W. ANDERSON, JR. , COMMISSIONER**

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**Attachment A**

A person who resides in one of the zip codes listed below is recognized as being adversely affected by Hurricane Ike.

77011	77012	77013	77016
77017	77022	77023	77028
77029	77033	77037	77045
77050	77051	77061	77076
77078	77080	77087	77093
77336	77338	77356	77362
77365	77507	77539	77547
77550	77551	77554	77562
77568	77563	77565	