

ORDINANCE NO. 517

AN ORDINANCE FOR THE CITY OF WEST COLUMBIA, TEXAS, AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES OF THE CITY OF WEST COLUMBIA, TEXAS, BY AMENDING AND RESTATING ARTICLE IV; ADOPTING A STANDARDIZED "SAFE HARBOR" REGISTRATION PROCESS FOR REP'S CONSISTENT WITH SECTION 24.113 OF THE PUC SUBSTANTIVE RULE; CONTAINING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF ANY AND ALL KINDS OF ORDINANCES, REGULATIONS, RULES OR POLICIES WHICH ARE IN ANY MANNER INCONSISTENT OR IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST COLUMBIA, TEXAS:

Section One

Article IV. entitled "Electricity Sale and Distribution Systems" of Chapter 20 of the Code of Ordinances of the City West Columbia, Texas, shall be and is hereby amended and restated as follows:

ARTICLE IV. ELECTRICITY SALE AND DISTRIBUTION SYSTEMS

Sec. 20-100. Definitions

In this Chapter and Article, and in all Ordinances granting franchises under this Article, the terms used, unless a clear intent is expressed in writing to the contrary, shall have the meanings and definitions as set forth in Title 2. Subtitle B. Entitled "Electric Utilities" of the Texas Utilities Code in general and Section 31.002 of that Code in particular, and in Section 25.113 (c) of the PUC Substantive Rule. Specifically, as of the date of the adoption of this Article, the following words and terms, when used in this Article, shall have the following meanings, unless the context clearly indicates otherwise:

Resident shall mean any electric customer located within the City, except the City itself, regardless of customer class.

Revocation shall mean the cessation of all REP business operations within the City, pursuant to City order.

Suspension shall mean the cessation of all REP business operations within the City associated with obtaining new customers, pursuant to City order.

Sec. 20-101. Franchise Fees - Transmission and Distribution Utilities

Each transmission and distribution utility desiring to use the public rights of way within the City to deliver electricity within the City shall be required to obtain a franchise in accordance with this Chapter, to be evidenced by a franchise granting ordinance under the terms of this Chapter.

Sec. 20-102. KWH Right of Way Charge

Pursuant to Texas Utility Code sections 33.008(a) and 33.008(b), the City imposes on each Electric Utility and/or Transmission and Distribution Utility that provides distribution services within the City limits, a KWH charge as authorized by Texas Utility Code, section 33.008. Such charge shall be paid as is provided for in the franchise ordinance.

Sec. 20-103. Periodic Reports

Upon payment of the per kilowatt hour charge, as authorized by the Texas Utility Code, section 33.008, the Electric Utility or Transmission and Distribution Utility shall also file a report with the City evidencing the kilowatt hours delivered within the City during the applicable period, and other reasonable information as requested in writing by the City, to verify the accuracy of that report.

Sec. 20-104. Knowing Misrepresentation Unlawful

It shall be a violation of this Code of Ordinances for the franchisee to knowingly make a material misrepresentation of any information required to be reported under this Article.

Sec. 20-105. Retail Electric Provider Registration

A. Non-Discrimination

The City shall not establish registration requirements that are different for any REP or type of REP or that impose any disadvantage or confer any preference on any REP or type of REP. The City may, however, exclude from the requirements of this section an REP that provides service only to the City's own electric accounts, and not to any residents of the City.

B. Notice

The City shall, at least thirty (30) days before the effective date of the ordinance adopting this Article, file this ordinance, including the effective date, with the PUC as provided under Section 25.113 (e) of the PUC Substantive Rule.

C. Standards for Registration

(1) All Retail Electric Providers (“REP”) must pay a \$25.00 administrative registration fee and complete and file with the City Secretary the REP Registration Form approved by the PUC. Registration will be issued in the name of the Retail Electric Provider as registered with the Public Utility Commission of Texas. When any information provided on the City Registration Form changes, the REP must inform the City of the change no more than thirty (30) days after the date the change is made. All REP’s serving residents in the City as of the effective date of this ordinance, shall register with the City within thirty (30) days after the effective date of the ordinance adopting this Article. All other REP’s serving residents in the City must register within thirty (30) days after providing retail electric service to any resident of the City.

(2) The Registration Form shall include:

- a. The legal name(s) of the retail electric provider and all trade or commercial names;
- b. The registering REP’s certificate number, as approved under §25.107 of this title and the docket number under which the certification was granted by the commission;
- c. The Texas business address, mailing address, and principal place of business of the registering REP. The business address provided shall be a physical address that is not a post office box;
- d. The name, physical business address, telephone number, fax number, and e-mail address for a Texas regulatory contact person and for an agent for service of process, if a different person;
- e. Toll-free telephone number, fax number and email address for the customer service department or the name, title and telephone number, fax number and email address of the

customer service contact person;

- f. The types of electric customer classes that the REP intends to serve within the City;
- g. The location of each office maintained by the registering REP within the City boundaries, including postal address, physical address, telephone number, hours of operation, and listing of the services available through each office;
- h. The name, physical address, telephone number, fax number and email address of the agent for service of process;
- i. The signature of an owner, partner, officer or other authorized representative of the registering REP.

(3) Registration Forms may be submitted to the City by mail, facsimile, or on-line, when and if such on-line registration is available.

(4) The City shall review the REP's submitted form for completeness, including the remittance of the registration fee. Within 15 business days of receipt of an incomplete registration, the City shall notify the registering REP in writing of the deficiencies in the registration. The registering REP shall have 20 business days from the issuance of the notification to cure the deficiencies. If the deficiencies are not cured within 20 business days, the City shall immediately send a rejection notice to the registering REP that the registration is rejected without prejudice. Absent such notification of rejection, the registration shall be deemed to have been accepted.

(5) The City shall not deny a REP's request for registration based upon investigations into the fitness or capability of a REP that has a current certificate from the commission.

(6) The City shall not require a REP to undergo a hearing before the City for the purposes of registration, nor require the REP to send a representative to the City for purposes of processing the registration form.

D. Late Fee

Any REP which fails to register within the time required under this Article shall, in addition to the registration fee provided above, pay a one time late fee in the amount of \$15.00.

E. Revocation - Reregistration

In the event an REP's registration is revoked, and the REP subsequently cures its defects and resumes operations, the REP shall register in the same manner as a new REP.

Sec. 20-106. Compliance with Texas Public Utility Commission Center Service Standards and Chapter 39 of the Texas Utility Code

All REPS that provide electric service to residents shall strictly comply with all requirements of Chapter 39 of the Texas Utility Code, particularly with Section 39.101 on "Customer Safeguards" and Section 39.353(c) concerning REP compliance with customer protection provisions and marketing guidelines established by the PUCT; and all PUCT customer protection requirements, including but not limited to PUCT Substantive Rule §25.107(h), which includes the following minimum standards:

1. A REP may not refuse to provide retail electric service or otherwise discriminate in the provisions of electric service to any customer because of race, creed, color, national original, ancestry, sex, marital status, lawful source of income, disability or familial status; or refuse to provide retail electric service to a customer because the customer is located in an economically distressed geographic area or qualifies for low-income affordability or energy efficiency services.
2. A REP shall inform its customers whom to contact and what to do in the event of power outage or other electricity-related emergency.
3. A REP shall inform its customers of the customer's rights and avenues available to pursue a complaint against the REP as afforded by PURA [Texas Utility Code] §39.101.
4. A REP shall not switch, or cause to be switched, the retail electric provider for a customer without first obtaining proper authorization from the customer.
5. A REP shall not bill, or cause to be billed, an unauthorized charge to a customer's retail electric service bill.
6. A REP shall respond in good faith when notified by a customer of a complaint.

7. A REP shall maintain a customer service staff adequate to handle customer inquiries and complaints.
8. A REP may not release proprietary customer information to any person unless the customer authorizes the release in a manner approved by the commission.

Sec. 20-107. Enforcement, Suspension and Revocation of Registration

The City may suspend or revoke a REP's registration and authority to operate with the City only upon a commission finding that the REP has committed significant violations of PURA Chapter 39 or rules adopted under that chapter. The City shall not suspend or revoke the registration of the affiliated REP or provider of last resort (POLR) serving residents in the City. The City shall not take any action against a REP other than suspension or revocation of a REP's registration and authority to operate in the City, or imposition of a late fee in accordance with subsection (h) (2) of this section.

- (1) The City may provide a REP with a warning prior to seeking to suspend or revoke a REP's registration.
- (2) The City seeking to suspend or revoke a REP's registration shall provide the REP with at least 30 calendar days written notice, informing the REP that its registration and authority to operate shall be suspended or revoked. The notice shall specify the reason(s) for such suspension or revocation.
- (3) The City may order that the REP's registration be suspended or revoked only after the notice period has expired.
- (4) In its suspension order, the City shall specify the reasons for the suspension and provide a date certain or provide conditions that a REP must satisfy to cure the suspension. Once the suspension period has expired or the reasons for the suspension have been rectified, the suspension shall be lifted.
- (5) In its revocation order, the City shall specify the reasons for the revocation.
- (6) A REP may appeal the City's suspension or revocation order to the commission.