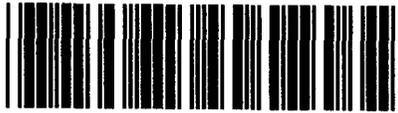




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Barry Smitherman
Commissioner



32874

Public Utility Commission of Texas

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PUBLIC UTILITY COMMISSION
FILING CLERK

July 13, 2007

Corey R. Jones, MD, MS
Chairman and Medical Director of
Emergency Medicine
St. David's Medical Center
Austin, Texas 78765

Dear Dr. Jones :

Thank you for your recent letter regarding the petition for an emergency rule prohibiting summer electricity disconnections for low income seniors and critical care customers residing in the ERCOT area of Texas which is open to retail competition (you may be unaware but the Commission has no power over municipal electric utilities including Austin Energy and the numerous co-ops in Central Texas, including the Pedernales Electric Cooperative). Last year the Commission approved an Emergency Order in Project No. 32874 to prohibit the disconnection of electricity for critical care residential and elderly low-income customers. This action was necessary last summer because the State of Texas was experiencing record heat, customers were consuming record amounts of electricity, and electricity prices were at record highs. There was also no System Benefit money available last summer for low-income residential customers.

Under the Administrative Procedures Act (APA), the Commission may adopt rules on a temporary, emergency basis only if it finds that an imminent peril to public health, safety, or welfare exists. Absent such a finding, the Commission may adopt rules only through the normal APA process which requires somewhat lengthy notice, publication, and comment periods. Based upon the circumstances present this summer, it is difficult to conclude that adoption of an emergency rule is appropriate.

First, Texas has not experienced the same extreme and persistent heat as it experienced last summer. According to temperature data obtained from NOAA, the monthly average maximum temperature for this June was approximately 10 degrees cooler than last June (89.7 vs. 99.2). This lower temperature has resulted in less need for air conditioning and therefore lower electricity consumption by residential customers. Second, residential retail electricity prices are lower this summer as compared to last summer. Both TXU Energy and Reliant Energy, the two largest residential retail electric providers in the competitive areas of ERCOT, are selling power at prices lower than last summer's Price to Beat (PTB) levels. In addition, both TXU and Reliant have voluntarily implemented the disconnection moratorium provisions found in both the Commission's emergency order last summer and in the version of SB 484 which died in the House of Representatives on the last day of the 80th Legislative Session. Finally, the Commission has moved quickly to authorize a discount of at least 12 percent pursuant to the Legislature's recent appropriation of \$30 million for the System Benefit fund for this summer. This discount will reduce residential electric bills by 25 to 30 percent from July through October for qualifying low-income customers.

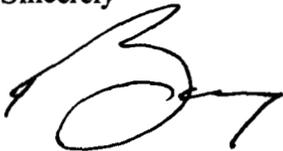
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The Commission will be opening a project to consider the merits of a permanent rule containing consumer protection provisions similar to those found in SB 482. Given the other rulemakings, reports, and proceedings that the Commission must undertake as result of various bills passed this past Session, it is unclear when we might complete such a project.

It is also important to note that in a competitive market (which excludes Austin and much of the surrounding area), companies can distinguish themselves from their competitors by proactively implementing customer protections beyond those required by law or PUC rule. For example, both TXU and Reliant have voluntarily implemented the disconnection moratorium provisions found in both the Commission's emergency order of last summer and in the version of SB 484 which died in the House of Representatives on the last day of the 80th Legislative Session. It is possible that other companies, whose customers may demand similar provisions, may elect to do the same in the near future. In addition, last summer the Commission passed a rule waiving the deposit fees, associated with switching to another retail electric provider, for senior citizens. Therefore, if a senior is receiving service from a company that has not voluntarily implemented the disconnection moratorium, they can switch to one that has.

Thanks again for your letter and please do not hesitate to contact me in the future.

Sincerely

A handwritten signature in black ink, appearing to read 'B. Smitherman', written in a cursive style.

Barry T. Smitherman
Commissioner