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Control Number - 54440

ItemNumber - 66



CY 2023 Registration of Submetered OR Allocated Utility Service

Control Number: **54440**

Registration No.: _____

(this number to be assigned by the PUC after your form is filed)

NOTE: Please **DO NOT** include any person or protected information on this form (ex: tax identification #'s, social security #'s, etc.)

PROPERTY OWNER: Do **not** enter the name of the owner's contract manager, management company, or billing company.

| | | | | | | | |
|------------------|------------------------------|------|---------|-------|----|-----|-------|
| Name | Vista Pointe Borrower II LLC | | | | | | |
| Mailing Address: | 3501 Olympus Blvd. Suite 360 | City | Coppell | State | TX | Zip | 75019 |
| Telephone# (AC) | (817)764-2722 | | | | | | |
| E-mail | Utilities@birchstoneres.com | | | | | | |

NAME, ADDRESS, AND TYPE OF PROPERTY WHERE UTILITY SERVICE IS PROVIDED

| | | | | | | | |
|------------------|-----------------------------|------|--------|-------|----|-----|-------|
| Name | The Anthem | | | | | | |
| Mailing Address: | 701 Cowboys Pkwy | City | Irving | State | TX | Zip | 75063 |
| Telephone# (AC) | (972)449-9485 | | | | | | |
| E-mail | Utilities@birchstoneres.com | | | | | | |

| | | | |
|---|--------------------------------------|---|--|
| <input checked="" type="checkbox"/> Apartment Complex | <input type="checkbox"/> Condominium | <input type="checkbox"/> Manufactured Home Rental Community | <input type="checkbox"/> Multiple-Use Facility |
| If applicable, describe the "multiple-use facility" here: | | | |

INFORMATION ON UTILITY SERVICE

| | | | | |
|--|---|--|---|--|
| Tenants are billed for | <input checked="" type="checkbox"/> Water | <input checked="" type="checkbox"/> Wastewater | <input type="checkbox"/> Submetered <u>OR</u> | <input checked="" type="checkbox"/> Allocated ★★ ★ |
| Name of utility providing water/wastewater | | | | |
| Date submetered or allocated billing begins (or began) | | | Required | |

METHOD USED TO OFFSET CHARGES FOR COMMON AREAS Check one line only.

| | |
|--|--|
| <input type="checkbox"/> Not applicable, because | <input type="checkbox"/> Bills are based on the tenant's actual submetered consumption |
| <input type="checkbox"/> | <input type="checkbox"/> There are neither common areas nor an installed irrigation system |

All common areas and the irrigation system(s) are metered or submetered:
 We deduct the actual utility charges for water and wastewater to these areas then allocate the remaining charges among our tenants.

This property has an installed irrigation system that is not separately metered or submetered:
 We deduct percent (we deduct at least 25 percent) of the utility's total charges for water and wastewater consumption, then allocate the remaining charges among our tenants.

This property has an installed irrigation system(s) that is/are separately metered or submetered:
 We deduct the actual utility charges associated with the irrigation system(s), then deduct at least 5 percent of the utility's total charges for water and wastewater consumption, then allocate the remaining charges among our tenants.

This property does not have an installed irrigation system:
 We deduct at least 5 percent of the retail public utility's total charges for water and wastewater consumption, and then allocate the remaining charges among our tenants.

★★★IF UTILITY SERVICES ARE ALLOCATED, YOU MUST ALSO COMPLETE PAGE TWO OF THIS FORM ★★★

You can e-file this form online through the PUC Interchange Filer (<https://interchange.puc.texas.gov/filer>).
 - You can find instructions for E-Filing at <https://www.puc.texas.gov/industry/filings/E-FilingInstructions.pdf>.

Or you may mail **one** copy to:
 For USPS:

For all other delivery or courier services:

Public Utility Commission of Texas Central Records
 P.O. Box 13326
 Austin, TX 78711-3326

Public Utility Commission of Texas Central Records
 1701 N. Congress Ave., 8-100
 Austin, TX 78701

METHOD USED TO ALLOCATE UTILITY CHARGES

Check the box or boxes that describe the allocation method used to bill tenants.

| | |
|--------------------------|---|
| <input type="checkbox"/> | 1. Occupancy method: The number of occupants in the tenant's dwelling unit is divided by the total number of occupants in all dwelling units at the beginning of the month for which bills are being rendered. |
|--------------------------|---|

| | | | |
|---|-----------------------------------|----------------------------|---|
| <input checked="" type="checkbox"/> | 2. Ratio occupancy method: | | Number of Occupants for Billing Purposes |
| The number of occupants in the tenant's dwelling unit is adjusted as shown in the table to the right. This adjusted value is divided by the total of these values for all dwelling units occupied at the beginning of the retail public utility's billing period. | | Number of Occupants | |
| | | 1 | 1.0 |
| | | 2 | 1.6 |
| | | 3 | 2.2 |
| | | >3 | 2.2 + 0.4 for each additional occupant |

| | | | |
|--|---------------------------------------|---------------------------|---|
| <input type="checkbox"/> | 3. Estimated occupancy method: | | Number of Occupants for Billing Purposes |
| The estimated occupancy for each unit is based on the number of bedrooms as shown in the table to the right. The estimated occupancy in the tenant's dwelling unit is divided by the total estimated occupancy in all dwelling units regardless of the actual number of occupants or occupied units. | | Number of Bedrooms | |
| | | 0 (Efficiency) | 1 |
| | | 1 | 1.6 |
| | | 2 | 2.8 |
| | | 3 | 4.0 |
| >3 | 4.0 + 1.2 for each additional bedroom | | |

For Box #4: if you check off with the % you will need to choose #1, #2, or # 3 from above as the remainder of no more than 50%.

| | |
|---|--|
| 4. Occupancy and size of rental unit | percent (in which no more than 50%) of the utility bill for consumption is allocated using the occupancy method checked above. The remainder is allocated according to either: |
| <ul style="list-style-type: none"> the size of the tenant's dwelling unit divided by the total size of all dwelling units, OR the size of the space rented by the tenant of a manufactured home divided by the size of all rental spaces. | |

| | |
|---|------------------------------|
| <input type="checkbox"/> | Submetered hot water: |
| The individually submetered hot water used in the tenant's dwelling unit is divided by all submetered hot water used in all dwelling units. | |

| | |
|---|---|
| <input type="checkbox"/> | Submetered cold water is used to allocate charges for hot water provided through a central system: |
| The individually submetered cold water used in the tenant's dwelling unit is divided by all submetered cold water used in all dwelling units. | |

| | |
|--------------------------|---|
| <input type="checkbox"/> | As outlined in the condominium contract. Describe: |
| | |

| | |
|---|--|
| <input type="checkbox"/> | Size of manufactured home rental space: |
| The size of the area rented by the tenant divided by the total area of all the size of rental spaces. | |

| | |
|--|--|
| <input type="checkbox"/> | Size of the rented space in a multi-use facility: |
| The square footage of the space rented by the tenant divided by the total square footage of all rental spaces. | |

LEASE ADDENDUM FOR ALLOCATING WATER/WASTEWATER COSTS

1. **Addendum.** This is an addendum to the TAA Lease Contract for Apt. No. _____ in the Vista Pointe Borrower II, LLC

_____ Apartments in Irving, Texas. The terms of this addendum will control if the terms of the Lease and this addendum conflict.

2. **Reason for allocation.** When water and wastewater bills are paid 100 percent by the property owner, residents have no incentive to conserve water. This results in a waste of our state’s natural resources and adds to the overhead of the property—and that usually means higher rents. Allocation of water bills saves money for residents because it encourages them to conserve water and wastewater. We as owners also have incentive to conserve because we are required by law to pay a portion of the total water bill(s) for the entire apartment community.

3. **Your payment due date.** Payment of your allocated water/wastewater bill is due 16 days after the date it is postmarked or hand delivered to your apartment. You agree to mail or deliver payment to the place indicated on your bill so that payment is received no later than the due date. You will pay a late charge of 5 percent of your water/wastewater bill if we don’t receive timely payment. If you are late in paying the water bill, we may not cut off your water; but we may immediately exercise all other lawful remedies, including eviction—just like late payment of rent.

4. **Allocation procedures.** Your monthly rent under the TAA Lease Contract does *not* include a charge for water and wastewater. Instead, you will be receiving a separate bill from us each month for such utilities. We may include this item as a separate and distinct charge as part of a multi-item bill. We will allocate the monthly mastermeter water/wastewater bill(s) for the apartment community, based on an allocation method approved by the Public Utility Commission of Texas (PUC) and described below.

The allocation method that we will use in calculating your bill is noted below and described in the following subdivision of Section 24.281 of the PUC rules (*check only one*):

- subdivision (i) actual occupancy;
- subdivision (ii) ratio occupancy (PUC average for number of occupants in unit);
- subdivision (iii) average occupancy (PUC average for number of bedrooms in unit);
- subdivision (iv) combination of actual occupancy and square feet of the apartment; or
- subdivision (v) submetered hot/cold water, ratio to total.

The normal date on which the utility company sends its monthly bill to us for the water/wastewater mastermeter is about the _____ day of the month. Within 10 days thereafter, we will try to allocate that mastermeter bill among our residents by allocated billings.

5. **Common area deduction.** We will calculate your allocated share of the mastermetered water/wastewater bill according to PUC rules. Before calculating your portion of the bill, we will deduct for irrigation of landscaping and all other common area uses, as required by PUC rules. We will also deduct for any utility company base charges and customer service charges so that you won’t be paying any part of such charges for vacant units. No administrative or other fees will be added to the total mastermeter water/wastewater bill(s) to be allocated unless expressly allowed by PUC rules. No other amounts will be included in the bill except your unpaid balances and any late fees you incur. If we fail to pay our mastermeter bill to the utility company on time and incur penalties or interest, no portion of such amounts will be included in your bill.

6. **Change of allocation formula.** The above allocation formula for determining your share of the mastermetered water/wastewater bill cannot be changed except as follows: (1) the new formula is one approved by the PUC; (2) you receive notice of the new formula at least 35 days before it takes effect; and (3) you agree to the change in a signed lease renewal or signed mutual agreement.

7. **Previous average.** As required under PUC rules, you are notified that the average monthly bill for all dwelling units in the previous calendar year was \$ 32.27 per unit, varying from \$ 13.64 to \$ 50.90 for the lowest to highest month’s bills for any unit in the apartment community for this period, if such information is available. The above amounts do not reflect future changes in utility company water rates, weather variations, total water consumption, residents’ water consumption habits, etc.

8. **Right to examine records.** During regular weekday office hours, you may examine: (1) our water/wastewater bills from the utility company; (2) our calculations of your monthly allocations; and (3) any other information available to you under PUC rules. Please give us reasonable advance notice to gather the data. Any disputes relating to the computation of your bill will be between you and us.

9. **PUC.** Water allocation billing is regulated by the PUC. A copy of the rules is attached. This addendum complies with those rules.

10. **Conservation efforts.** We agree to use our best efforts to repair any water leaks inside or outside your apartment no later than 7 days after learning of them. You agree to use your best efforts to conserve water and notify us of leaks.

Signatures of All Residents

Signature of Owner or Owner’s Representative

Water allocation and submetering is regulated by the Texas Public Utility Commission (PUC). In accordance with PUC rules, a copy of the applicable rules is provided to you below:

SUBCHAPTER I: WATER UTILITY SUBMETERING AND ALLOCATION

§ 24.275. General Rules and Definitions

(a) Purpose and scope. The provisions of this subchapter are intended to establish a comprehensive regulatory system to assure that the practices involving submetered and allocated billing of dwelling units and multiple use facilities for water and sewer utility service are just and reasonable and include appropriate safeguards for tenants.

(b) Application. The provisions of this subchapter apply to apartment houses, condominiums, multiple use facilities, and manufactured home rental communities billing for water and wastewater utility service on a submetered or allocated basis. The provisions of this subchapter do not limit the authority of an owner, operator, or manager of an apartment house, manufactured home rental community, or multiple use facility to charge, bill for, or collect rent, an assessment, an administrative fee, a fee relating to upkeep or management of chilled water, boiler, heating, ventilation, air conditioning, or other building system, or any other amount that is unrelated to water and sewer utility service costs.

(c) Definitions. The following words and terms, when used in this subchapter, have the defined meanings, unless the context clearly indicates otherwise.

(1) Allocated utility service--Water or wastewater utility service that is master metered to an owner by a retail public utility and allocated to tenants by the owner.

(2) Apartment house--A building or buildings containing five or more dwelling units that are occupied primarily for nontransient use, including a residential condominium whether rented or owner occupied, and if a dwelling unit is rented, having rent paid at intervals of one month or more.

(3) Condominium manager--A condominium unit owners' association organized under Texas Property Code §82.101, or an incorporated or unincorporated entity comprising the council of owners under Chapter 81, Property Code. Condominium Manager and Manager of a Condominium have the same meaning.

(4) Customer service charge--A customer service charge is a rate that is not dependent on the amount of water used through the master meter.

(5) Dwelling unit--One or more rooms in an apartment house or condominium, suitable for occupancy as a residence, and containing kitchen and bathroom facilities; a unit in a multiple use facility; or a manufactured home in a manufactured home rental community.

(6) Dwelling unit base charge--A flat rate or fee charged by a retail public utility for each dwelling unit recorded by the retail public utility.

(7) Manufactured home rental community--A property on which spaces are rented for the occupancy of manufactured homes for nontransient residential use and for which rental is paid at intervals of one month or longer.

(8) Master meter--A meter used to measure, for billing purposes, all water usage of an apartment house, condominium, multiple use facility, or manufactured home rental community, including common areas, common facilities, and dwelling units.

(9) Multiple use facility--A commercial or industrial park, office complex, or marina with five or more units that are occupied primarily for nontransient use and are rented at intervals of one month or longer.

(10) Occupant--A tenant or other person authorized under a written agreement to occupy a dwelling.

(11) Overcharge--The amount, if any, a tenant is charged for submetered or nonsubmetered master metered utility service to the tenant's dwelling unit after a violation occurred relating to the assessment of a portion of utility costs in excess of the amount the tenant would have been charged under this subchapter. Overcharge and Overbilling have the same meaning.

(12) Owner--The legal titleholder of an apartment house, a manufactured home rental community, or a multiple use facility; and any individual, firm, or corporation expressly identified in the lease agreement as the landlord of tenants in the apartment house, manufactured home rental community, or multiple use facility. The term does not include the manager of an apartment home unless the manager is expressly identified as the landlord in the lease agreement.

(13) Point-of-use submeter--A device located in a plumbing system to measure the amount of water used at a specific point of use, fixture, or appliance, including a sink, toilet, bathtub, or clothes washer.

(14) Submetered utility service--Water utility service that is master metered for the owner by the retail public utility and individually metered by the owner at each dwelling unit; wastewater utility service based on

submetered water utility service; water utility service measured by point-of-use submeters when all of the water used in a dwelling unit is measured and totaled; or wastewater utility service based on total water use as measured by point-of-use submeters.

(15) Tenant--A person who owns or is entitled to occupy a dwelling unit or multiple use facility unit to the exclusion of others and, if rent is paid, who is obligated to pay for the occupancy under a written or oral rental agreement.

(16) Undercharge--The amount, if any, a tenant is charged for submetered or nonsubmetered master metered utility service to the tenant's dwelling unit less than the amount the tenant would have been charged under this subchapter. Undercharge and Underbilling have the same meaning.

(17) Utility costs--Any amount charged to the owner by a retail public utility for water or wastewater service. Utility Costs and Utility Service Costs have the same meaning.

(18) Utility service--For purposes of this subchapter, utility service includes only drinking water and wastewater.

§ 24.277. Owner Registration and Records

(a) Registration. An owner who intends to bill tenants for submetered or allocated utility service or who changes the method used to bill tenants for utility service shall register with the commission in a form prescribed by the commission.

(b) Water quantity measurement. Except as provided by subsections (c) and (d) of this section, a manager of a condominium or the owner of an apartment house, manufactured home rental community, or multiple use facility, on which construction began after January 1, 2003, shall provide for the measurement of the quantity of water, if any, consumed by the occupants of each unit through the installation of:

(1) submeters, owned by the property owner or manager, for each dwelling unit or rental unit; or

(2) individual meters, owned by the retail public utility, for each dwelling unit or rental unit.

(c) Plumbing system requirement. An owner of an apartment house on which construction began after January 1, 2003, and that provides government assisted or subsidized rental housing to low or very low income residents shall install a plumbing system in the apartment house that is compatible with the installation of submeters for the measurement of the quantity of water, if any, consumed by the occupants of each unit.

(d) Installation of individual meters. On the request by the property owner or manager, a retail public utility shall install individual meters owned by the utility in an apartment house, manufactured home rental community, multiple use facility, or condominium on which construction began after January 1, 2003, unless the retail public utility determines that installation of meters is not feasible. If the retail public utility determines that installation of meters is not feasible, the property owner or manager shall install a plumbing system that is compatible with the installation of submeters or individual meters. A retail public utility may charge reasonable costs to install individual meters.

(e) Records. The owner shall make the following records available for inspection by the tenant or the commission or commission staff at the on-site manager's office during normal business hours in accordance with subsection (g) of this section. The owner may require that the request by the tenant be in writing and include:

(1) a current and complete copy of TWC, Chapter 13, Subchapter M;

(2) a current and complete copy of this subchapter;

(3) a current copy of the retail public utility's rate structure applicable to the owner's bill;

(4) information or tips on how tenants can reduce water usage;

(5) the bills from the retail public utility to the owner;

(6) for allocated billing:

(A) the formula, occupancy factors, if any, and percentages used to calculate tenant bills;

(B) the total number of occupants or equivalent occupants if an equivalency factor is used under §24.281(e)(2) of this title (relating to Charges and Calculations); and

(C) the square footage of the tenant's dwelling unit or rental space and the total square footage of the apartment house, manufactured home rental community, or multiple use facility used for billing if dwelling unit size or rental space is used;

(7) for submetered billing:

- (A) the calculation of the average cost per gallon, liter, or cubic foot;
 - (B) if the unit of measure of the submeters or point-of-use submeters differs from the unit of measure of the master meter, a chart for converting the tenant's submeter measurement to that used by the retail public utility;
 - (C) all submeter readings; and
 - (D) all submeter test results;
 - (8) the total amount billed to all tenants each month;
 - (9) total revenues collected from the tenants each month to pay for water and wastewater service; and
 - (10) any other information necessary for a tenant to calculate and verify a water and wastewater bill.
- (f) Records retention. Each of the records required under subsection (e) of this section shall be maintained for the current year and the previous calendar year, except that all submeter test results shall be maintained until the submeter is permanently removed from service.
- (g) Availability of records.
- (1) If the records required under subsection (e) of this section are maintained at the on-site manager's office, the owner shall make the records available for inspection at the on-site manager's office within three days after receiving a written request.
 - (2) If the records required under subsection (e) of this section are not routinely maintained at the on-site manager's office, the owner shall provide copies of the records to the on-site manager within 15 days of receiving a written request from a tenant or the commission or commission staff.
 - (3) If there is no on-site manager, the owner shall make copies of the records available at the tenant's dwelling unit at a time agreed upon by the tenant within 30 days of the owner receiving a written request from the tenant.
 - (4) Copies of the records may be provided by mail if postmarked by midnight of the last day specified in paragraph (1), (2), or (3) of this subsection.

§ 24.279. Rental Agreement

- (a) Rental agreement content. The rental agreement between the owner and tenant shall clearly state in writing:
- (1) the tenant will be billed by the owner for submetered or allocated utility services, whichever is applicable;
 - (2) which utility services will be included in the bill issued by the owner;
 - (3) any disputes relating to the computation of the tenant's bill or the accuracy of any submetering device will be between the tenant and the owner;
 - (4) the average monthly bill for all dwelling units in the previous calendar year and the highest and lowest month's bills for that period;
 - (5) if not submetered, a clear description of the formula used to allocate utility services;
 - (6) information regarding billing such as meter reading dates, billing dates, and due dates;
 - (7) the period of time by which owner will repair leaks in the tenant's unit and in common areas, if common areas are not submetered;
 - (8) the tenant has the right to receive information from the owner to verify the utility bill; and
 - (9) for manufactured home rental communities and apartment houses, the service charge percentage permitted under §24.281(d)(3) of this title (relating to Charges and Calculations) that will be billed to tenants.
- (b) Requirement to provide rules. At the time a rental agreement is discussed, the owner shall provide a copy of this subchapter or a copy of the rules to the tenant to inform the tenant of his rights and the owner's responsibilities under this subchapter.
- (c) Tenant agreement to billing method changes. An owner shall not change the method by which a tenant is billed unless the tenant has agreed to the change by signing a lease or other written agreement. The owner shall provide notice of the proposed change at least 35 days prior to implementing the new method.
- (d) Change from submetered to allocated billing. An owner shall not change from submetered billing to allocated billing, except after receiving written approval from the commission after a demonstration of good cause and if the rental agreement requirements under subsections (a), (b), and (c) of this section have been met. Good cause may include:
- (1) equipment failures; or
 - (2) meter reading or billing problems that could not feasibly be corrected.

(e) Waiver of tenant rights prohibited. A rental agreement provision that purports to waive a tenant's rights or an owner's responsibilities under this subchapter is void.

§ 24.281. Charges and Calculations

- (a) Prohibited charges. Charges billed to tenants for submetered or allocated utility service may only include bills for water or wastewater from the retail public utility and must not include any fees billed to the owner by the retail public utility for any deposit, disconnect, reconnect, late payment, or other similar fees.
- (b) Dwelling unit base charge. If the retail public utility's rate structure includes a dwelling unit base charge, the owner shall bill each dwelling unit for the base charge applicable to that unit. The owner may not bill tenants for any dwelling unit base charges applicable to unoccupied dwelling units.
- (c) Customer service charge. If the retail public utility's rate structure includes a customer service charge, the owner shall bill each dwelling unit the amount of the customer service charge divided by the total number of dwelling units, including vacant units, that can receive service through the master meter serving the tenants.
- (d) Calculations for submetered utility service. The tenant's submetered charges must include the dwelling unit base charge and customer service charge, if applicable, and the gallonage charge and must be calculated each month as follows:
- (1) water utility service: the retail public utility's total monthly charges for water service (less dwelling unit base charges or customer service charges, if applicable), divided by the total monthly water consumption measured by the retail public utility to obtain an average water cost per gallon, liter, or cubic foot, multiplied by the tenant's monthly consumption or the volumetric rate charged by the retail public utility to the owner multiplied by the tenant's monthly water consumption;
 - (2) wastewater utility service: the retail public utility's total monthly charges for wastewater service (less dwelling unit base charges or customer service charges, if applicable), divided by the total monthly water consumption measured by the retail public utility, multiplied by the tenant's monthly consumption or the volumetric wastewater rate charged by the retail public utility to the owner multiplied by the tenant's monthly water consumption;
 - (3) service charge for manufactured home rental community or the owner or manager of apartment house: a manufactured home rental community or apartment house may charge a service charge in an amount not to exceed 9% of the tenant's charge for submetered water and wastewater service, except when:
 - (A) the resident resides in a unit of an apartment house that has received an allocation of low income housing tax credits under Texas Government Code, Chapter 2306, Subchapter DD; or
 - (B) the apartment resident receives tenant-based voucher assistance under United States Housing Act of 1937 Section 8, (42 United States Code, §1437f); and
 - (4) final bill on move-out for submetered service: if a tenant moves out during a billing period, the owner may calculate a final bill for the tenant before the owner receives the bill for that period from the retail public utility. If the owner is billing using the average water or wastewater cost per gallon, liter, or cubic foot as described in paragraph (1) of this subsection, the owner may calculate the tenant's bill by calculating the tenant's average volumetric rate for the last three months and multiplying that average volumetric rate by the tenant's consumption for the billing period.
- (e) Calculations for allocated utility service.
- (1) Before an owner may allocate the retail public utility's master meter bill for water and sewer service to the tenants, the owner shall first deduct:
 - (A) dwelling unit base charges or customer service charge, if applicable; and
 - (B) common area usage such as installed landscape irrigation systems, pools, and laundry rooms, if any, as follows:
 - (i) if all common areas are separately metered or submetered, deduct the actual common area usage;
 - (ii) if common areas that are served through the master meter that provides water to the dwelling units are not separately metered or submetered and there is an installed landscape irrigation system, deduct at least 25% of the retail public utility's master meter bill;
 - (iii) if all water used for an installed landscape irrigation system is metered or submetered and there are other common areas such as pools or laundry rooms that are not metered or submetered, deduct at least 5% of the retail public utility's master meter bill; or
 - (iv) if common areas that are served through the master meter that provides water to the dwelling units are not separately metered or

submetered and there is no installed landscape irrigation system, deduct at least 5% of the retail public utility's master meter bill.

(2) To calculate a tenant's bill:

(A) for an apartment house, the owner shall multiply the amount established in paragraph (1) of this subsection by:

(i) the number of occupants in the tenant's dwelling unit divided by the total number of occupants in all dwelling units at the beginning of the month for which bills are being rendered; or

(ii) the number of occupants in the tenant's dwelling unit using a ratio occupancy formula divided by the total number of occupants in all dwelling units at the beginning of the retail public utility's billing period using the same ratio occupancy formula to determine the total. The ratio occupancy formula will reflect what the owner believes more accurately represents the water use in units that are occupied by multiple tenants. The ratio occupancy formula that is used must assign a fractional portion per tenant of no less than that on the following scale:

(I) dwelling unit with one occupant = 1;

(II) dwelling unit with two occupants = 1.6;

(III) dwelling unit with three occupants = 2.2; or

(IV) dwelling unit with more than three occupants = 2.2 + 0.4 per each additional occupant over three; or

(iii) the average number of occupants per bedroom, which shall be determined by the following occupancy formula. The formula must calculate the average number of occupants in all dwelling units based on the number of bedrooms in the dwelling unit according to the scale below, notwithstanding the actual number of occupants in each of the dwelling unit's bedrooms or all dwelling units:

(I) dwelling unit with an efficiency = 1;

(II) dwelling unit with one bedroom = 1.6;

(III) dwelling unit with two bedrooms = 2.8;

(IV) dwelling unit with three bedrooms = 4 + 1.2 for each additional bedroom; or

(iv) a factor using a combination of square footage and occupancy in which no more than 50% is based on square footage. The square footage portion must be based on the total square footage living area of the dwelling unit as a percentage of the total square footage living area of all dwelling units of the apartment house; or

(v) the individually submetered hot or cold water usage of the tenant's dwelling unit divided by all submetered hot or cold water usage in all dwelling units;

(B) a condominium manager shall multiply the amount established in paragraph (1) of this subsection by any of the factors under subparagraph (A) of this paragraph or may follow the methods outlined in the condominium contract;

(C) for a manufactured home rental community, the owner shall multiply the amount established in paragraph (1) of this subsection by:

(i) any of the factors developed under subparagraph (A) of this paragraph; or

(ii) the area of the individual rental space divided by the total area of all rental spaces; and

(D) for a multiple use facility, the owner shall multiply the amount established in paragraph (1) of this subsection by:

(i) any of the factors developed under subparagraph (A) of this paragraph; or

(ii) the square footage of the rental space divided by the total square footage of all rental spaces.

(3) If a tenant moves in or out during a billing period, the owner may calculate a bill for the tenant. If the tenant moves in during a billing period, the owner shall prorate the bill by calculating a bill as if the tenant were there for the whole month and then charging the tenant for only the number of days the tenant lived in the unit divided by the number of days in the month multiplied by the calculated bill. If a tenant moves out during a billing period before the owner receives the bill for that period from the retail public utility, the owner may calculate a final bill. The owner may calculate the tenant's bill by calculating the tenant's average bill for the last three months and multiplying that average bill by the number of days the tenant was in the unit divided by the number of days in that month.

(f) Conversion to approved allocation method. An owner using an allocation formula other than those approved in subsection (e) of this section shall immediately provide notice as required under §24.279(c) of this title (relating to Rental Agreement) and either:

(1) adopt one of the methods in subsection (e) of this section; or

(2) install submeters and begin billing on a submetered basis; or

(3) discontinue billing for utility services.

§ 24.283. Billing

(a) Monthly billing of total charges. The owner shall bill the tenant each month for the total charges calculated under §24.281 of this title (relating to Charges and Calculations). If it is permitted in the rental agreement, an occupant or occupants who are not residing in the rental unit for a period longer than 30 days may be excluded from the occupancy calculation and from paying a water and sewer bill for that period.

(b) Rendering bill.

(1) Allocated bills shall be rendered as promptly as possible after the owner receives the retail public utility bill.

(2) Submeter bills shall be rendered as promptly as possible after the owner receives the retail public utility bill or according to the time schedule in the rental agreement if the owner is billing using the retail public utility's rate.

(c) Submeter reading schedule. Submeters or point-of-use submeters shall be read within three days of the scheduled reading date of the retail public utility's master meter or according to the schedule in the rental agreement if the owner is billing using the retail public utility's rate.

(d) Billing period.

(1) Allocated bills shall be rendered for the same billing period as that of the retail public utility, generally monthly, unless service is provided for less than that period.

(2) Submeter bills shall be rendered for the same billing period as that of the retail public utility, generally monthly, unless service is provided for less than that period. If the owner uses the retail public utility's actual rate, the billing period may be an alternate billing period specified in the rental agreement.

(e) Multi-item bill. If issued on a multi-item bill, charges for submetered or allocated utility service must be separate and distinct from any other charges on the bill.

(f) Information on bill. The bill must clearly state that the utility service is submetered or allocated, as applicable, and must include all of the following:

(1) total amount due for submetered or allocated water;

(2) total amount due for submetered or allocated wastewater;

(3) total amount due for dwelling unit base charge(s) or customer service charge(s) or both, if applicable;

(4) total amount due for water or wastewater usage, if applicable;

(5) the name of the retail public utility and a statement that the bill is not from the retail public utility;

(6) name and address of the tenant to whom the bill is applicable;

(7) name of the firm rendering the bill and the name or title, address, and telephone number of the firm or person to be contacted in case of a billing dispute; and

(8) name, address, and telephone number of the party to whom payment is to be made.

(g) Information on submetered service. In addition to the information required in subsection (f) of this section, a bill for submetered service must include all of the following:

(1) the total number of gallons, liters, or cubic feet submetered or measured by point-of-use submeters;

(2) the cost per gallon, liter, or cubic foot for each service provided; and

(3) total amount due for a service charge charged by an owner of a manufactured home rental community, if applicable.

(h) Due date. The due date on the bill may not be less than 16 days after it is mailed or hand delivered to the tenant, unless the due date falls on a federal holiday or weekend, in which case the following work day will be the due date. The owner shall record the date the bill is mailed or hand delivered. A payment is delinquent if not received by the due date.

(i) Estimated bill. An estimated bill may be rendered if a master meter, submeter, or point-of-use submeter has been tampered with, cannot be read, or is out of order; and in such case, the bill must be distinctly marked as an estimate and the subsequent bill must reflect an adjustment for actual charges.

(j) Payment by tenant. Unless utility bills are paid to a third-party billing company on behalf of the owner, or unless clearly designated by the tenant, payment must be applied first to rent and then to utilities.

(k) Overbilling and underbilling. If a bill is issued and subsequently found to be in error, the owner shall calculate a billing adjustment. If the tenant is due a refund, an adjustment must be calculated for all of that tenant's bills that

included overcharges. If the overbilling or underbilling affects all tenants, an adjustment must be calculated for all of the tenants' bills. If the tenant was undercharged, and the cause was not due to submeter or point-of-use submeter error, the owner may calculate an adjustment for bills issued in the previous six months. If the total undercharge is \$25 or more, the owner shall offer the tenant a deferred payment plan option, for the same length of time as that of the underbilling. Adjustments for usage by a previous tenant may not be back billed to a current tenant.

(l) Disputed bills. In the event of a dispute between a tenant and an owner regarding any bill, the owner shall investigate the matter and report the results of the investigation to the tenant in writing. The investigation and report must be completed within 30 days from the date the tenant gives written notification of the dispute to the owner.

(m) Late fee. A one-time penalty not to exceed 5% may be applied to delinquent accounts. If such a penalty is applied, the bill must indicate the amount due if the late penalty is incurred. No late penalty may be applied unless agreed to by the tenant in a written lease that states the percentage amount of such late penalty.

§ 24.285. Complaint Jurisdiction

(a) Jurisdiction. The commission has exclusive jurisdiction for violations under this subchapter.

(b) Complaints. If an apartment house owner, condominium manager, manufactured home rental community owner, or other multiple use facility owner violates a commission rule regarding utility costs, the person claiming the violation may file a complaint with the commission and may appear remotely for a hearing.

§ 24.287. Submeters or Point-of-Use Submeters and Plumbing Fixtures

(a) Submeters or point-of-use submeters.

(1) Same type submeters or point-of-use submeters required. All submeters or point-of-use submeters throughout a property must use the same unit of measurement, such as gallon, liter, or cubic foot.

(2) Installation by owner. The owner shall be responsible for providing, installing, and maintaining all submeters or point-of-use submeters necessary for the measurement of water to tenants and to common areas, if applicable.

(3) Submeter or point-of-use submeter tests prior to installation. No submeter or point-of-use submeter may be placed in service unless its accuracy has been established. If any submeter or point-of-use submeter is removed from service, it must be properly tested and calibrated before being placed in service again.

(4) Accuracy requirements for submeters and point-of-use submeters. Submeters must be calibrated as close as possible to the condition of zero error and within the accuracy standards established by the American Water Works Association (AWWA) for water meters. Point-of-use submeters must be calibrated as closely as possible to the condition of zero error and within the accuracy standards established by the American Society of Mechanical Engineers (ASME) for point-of-use and branch-water submetering systems.

(5) Location of submeters and point-of-use submeters. Submeters and point-of-use submeters must be installed in accordance with applicable plumbing codes and AWWA standards for water meters or ASME standards for point-of-use submeters, and must be readily accessible to the tenant and to the owner for testing and inspection where such activities will cause minimum interference and inconvenience to the tenant.

(6) Submeter and point-of-use submeter records. The owner shall maintain a record on each submeter or point-of-use submeter which includes:

- (A) an identifying number;
- (B) the installation date (and removal date, if applicable);
- (C) date(s) the submeter or point-of-use submeter was calibrated or tested;
- (D) copies of all tests; and
- (E) the current location of the submeter or point-of-use submeter.

(7) Submeter or point-of-use submeter test on request of tenant. Upon receiving a written request from the tenant, the owner shall either:

- (A) provide evidence, at no charge to the tenant, that the submeter or point-of-use submeter was calibrated or tested within the preceding 24 months and determined to be within the accuracy standards established by the AWWA for water meters or ASME standards for point-of-use submeters; or
- (B) have the submeter or point-of-use submeter removed and tested and promptly advise the tenant of the test results.

(8) Billing for submeter or point-of-use submeter test.

(A) The owner may not bill the tenant for testing costs if the submeter fails to meet AWWA accuracy standards for water meters or ASME standards for point-of-use submeters.

(B) The owner may not bill the tenant for testing costs if there is no evidence that the submeter or point-of-use submeter was calibrated or tested within the preceding 24 months.

(C) The owner may bill the tenant for actual testing costs (not to exceed \$25) if the submeter meets AWWA accuracy standards or the point-of-use submeter meets ASME accuracy standards and evidence as described in paragraph (7)(A) of this subsection was provided to the tenant.

(9) Bill adjustment due to submeter or point-of-use submeter error. If a submeter does not meet AWWA accuracy standards or a point-of-use submeter does not meet ASME accuracy standards and the tenant was overbilled, an adjusted bill must be rendered in accordance with §24.283(k) of this title (relating to Billing). The owner may not charge the tenant for any underbilling that occurred because the submeter or point-of-use submeter was in error.

(10) Submeter or point-of-use submeter testing facilities and equipment. For submeters, an owner shall comply with the AWWA's meter testing requirements. For point-of-use meters, an owner shall comply with ASME's meter testing requirements.

(b) Plumbing fixtures. After January 1, 2003, before an owner of an apartment house, manufactured home rental community, or multiple use facility or a manager of a condominium may implement a program to bill tenants for submetered or allocated water service, the owner or manager shall adhere to the following standards:

(1) Texas Health and Safety Code, §372.002, for sink or lavatory faucets, faucet aerators, and showerheads;

(2) perform a water leak audit of each dwelling unit or rental unit and each common area and repair any leaks found; and

(3) not later than the first anniversary of the date an owner of an apartment house, manufactured home rental community, or multiple use facility or a manager of a condominium begins to bill for submetered or allocated water service, the owner or manager shall:

(A) remove any toilets that exceed a maximum flow of 3.5 gallons per flush; and

(B) install toilets that meet the standards prescribed by Texas Health and Safety Code, §372.002.

(c) Plumbing fixture not applicable. Subsection (b) of this section does not apply to a manufactured home rental community owner who does not own the manufactured homes located on the property of the manufactured home rental community.