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PROJECT NO. 56898

PROVISION OF EMERGENCY	§	PUBLIC UTILITY COMMISSION
CONTACT INFORMATION TO	§	
TRANSMISSION AND	§	OF TEXAS
DISTRIBUTION UTILITIES BY	§	
RETAIL ELECTRIC PROVIDERS	§	

**OFFICE OF PUBLIC UTILITY COUNSEL’S REPLY COMMENTS ON
PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §25.472**

The Office of Public Utility Counsel (“OPUC”), representing the interests of residential and small commercial consumers in Texas, respectfully submits these reply comments in response to the initial comments filed by AEP Texas, Inc. (“AEP”),¹ the Alliance for Retail Markets (“ARM”),² CenterPoint Energy Houston Electric (“CenterPoint”),³ Oncor Electric Delivery Company LLC (“Oncor”),⁴ the Texas Energy Association for Marketers (“TEAM”),⁵ and Texas-New Mexico Power Company (“TNMP”)⁶ addressing the Staff (“Staff”) of the Public Utility Commission of Texas’s (“Commission”) proposed amendments to 16 Texas Administrative Code (“TAC”) § 25.472. The Proposal for Publication (“PFP”) requests reply comments by October 3, 2024.⁷ Therefore, these comments are timely filed.

¹ AEP Texas Inc.’s Initial Comments on Proposal for Publication of Amendments to 16 TAC § 25.472 (Sept. 19, 2024). (AEP).

² Alliance for Retail Markets’ Initial Comments on the Proposal for Publication (Sept. 19, 2024). (ARM).

³ Comments of CenterPoint Houston Electric, LLC (Sept. 19, 2024). (CenterPoint).

⁴ Oncor Electric Delivery Company LLC’s Initial Comments on the Proposal for Publication of Amendments to 16 TAC § 25.472 (Sept. 19, 2024). (Oncor).

⁵ Texas Energy Association for Marketers’ Comments on the Proposal for Publication (Sept. 19, 2024). (TEAM).

⁶ Texas-New Mexico Power Company’s Comments on the Proposal for Publication of Amended 16 TAC § 25.472 (Sept. 19, 2024). (TNMP).

⁷ Proposal for Publication of Amendments to §25.472 at 4 (Aug. 16, 2024).

REPLY COMMENTS

A. Answers to Commission Questions

OPUC agrees with TEAM and ARM that the goals of the present rulemaking project would be better addressed in Project No. 56897.⁸ Both retail electric providers (“REPs”) and transmission and distribution utilities (“TDUs”) have pointed out that existing Commission rules already permit the exchange of the customer contact information.⁹ Multiple stakeholders have also highlighted the additional labor that will be required for REPs, who would be required to sort and review this information, and for TDUs, who may need to verify the data and create new processes for utilizing it. Further, there are concerns about the availability of and accuracy of existing customer contact information, such as email addresses, that the proposed rule does not address. Considering these factors, OPUC believes the outage trackers currently proposed in Project No. 56897, which make location-specific restoration information available to the public without requiring any transfer of customer data, are a more effective and less invasive method of accomplishing the Commission’s goal of improving communication between TDUs and customers during an outage.¹⁰

Both REPs and TDUs have acknowledged the labor that will be required to transfer and process of millions of Texans’ contact information. For example, ARM anticipates that REPs may need to review entire customer databases to identify missing data.¹¹ At the same time, TDUs “may need to create new systems to receive, process, and/or utilize the customer contact information.”¹²

⁸ ARM at 4; TEAM at 1.

⁹ ARM at 2-3; TEAM at 2; AEP at 2; CenterPoint at 2; Oncor at 8.

¹⁰ *Electric Utility Outage Trackers and Hazardous Condition Reporting*, Project No. 56987, Proposal for Publication of Amendments to §25.52 (Aug. 16, 2024).

¹¹ ARM at 6.

¹² Oncor at 1.

Oncor estimates that it would not even be able to utilize the contact information to send outage notifications for at least six months.¹³ While ratepayers will bear the cost of implementing these programs, they will see no immediate benefit. Any benefits ratepayers receive will ultimately depend on how TDUs actually utilize contact information to issue outage alerts, an aspect that is not addressed by the proposed rule. Accordingly, OPUC believes that the proposed rule is not the most effective method of accomplishing the Commission's goals. Instead, OPUC would recommend that the Commission provide clear guidance, as it has already begun to do in Project No. 56897, on how TDUs may utilize the information already available to them to provide information to customers in an outage. However, if the Commission chooses to pursue the proposed rule, OPUC offers the following.

B. Proposed 16 TAC § 25.472(b)(6)

Subparagraph (A)

ARM has noted that the proposed rule will require REPs to provide customers' email addresses, which customers are not required to provide to REPs.¹⁴ To avoid a situation where REPs are required to hunt down email addresses from their customers, ARM recommends that REPs only be required to provide email addresses if they are already available.¹⁵ OPUC shares ARM's concern and supports this recommendation.

¹³ *Id.*

¹⁴ ARM at 5-6.

¹⁵ ARM at 6-7.

Subparagraph (D)

Oncor and CenterPoint have recommended expanding the types of information that TDUs may send using contact information received under the proposed rule.¹⁶ CenterPoint has suggested specifying that that TDUs may also utilize customer information obtained under the rule to send a variety of alerts, including severe weather warnings, information on state and federal emergencies, and shelter locations or other resources from state and local governments.¹⁷ CenterPoint believes that being able to provide that information would better protect safety of retail customers.

Although OPUC agrees that customers may benefit from having more information available to them, OPUC disagrees with CenterPoint's recommendation. First, TDUs are not the most convenient entity to aggregate and distribute information such as severe weather warnings or information on state and federal emergencies. This information does not originate from the TDUs, like outage restoration information would, and it is not clear whether or how the TDUs intend to verify these alerts before issuing them to customers. Second, broadening the permitted uses for contact information provided under the proposed rule introduces new opportunities for the misuse of that data. Specifically, OPUC is concerned that TDUs may, intentionally or not, promote or otherwise favor their affiliates through these additional alerts. Finally, customers may see the additional messages from their TDUs as excessive or a nuisance. While it is important to provide customers with enough information to navigate an emergency, TDUs must also be careful not to provide so much information that customers are inundated with it.

ARM has also recommended that the proposed rule should be further clarified to state that customer information provided under the proposed rule is also subject to the Code of Conduct for

¹⁶ Oncor at 11; CenterPoint at 5-6.

¹⁷ CenterPoint at 5-6.

Electric Utilities and Their Affiliates.¹⁸ ARM argues that this clarification ensures consistency with the Commission-approved tariff for retail delivery service section 4.3.7.¹⁹ This also reinforces that the information used under the proposed rule should not, as a general rule, be sold or shared with a TDU's affiliates or used to promote an affiliate's services or products. OPUC believes that consumer protection should be a priority where customer data is involved, as it is here. Accordingly, OPUC supports ARM's proposed clarification.

Subparagraph (F)

Oncor and TNMP have recommended that the requirement that all communications contain information in both English and Spanish should not apply to text messages.²⁰ Oncor and TNMP both express concerns that, due to the 160-character limit on text message alerts, TDUs will be required to send twice as many texts to convey the information in English and Spanish, which will incur additional costs.²¹ Oncor also argues that the additional alerts may become a nuisance to customers, prompting mass opt-outs.²²

OPUC disagrees with these recommendations. Providing information in both English and Spanish is a simple and effective way to ensure that far more customers can benefit from outage alerts. Spanish is the primary language for many Texas residential customers, and for some it is the only language they speak or read. These customers deserve accurate and timely information about outages, and they should be able to access that information with the same ease as their English-speaking counterparts. Further, text is one of the most widely accessible and convenient

¹⁸ ARM at 7

¹⁹ *Id.*

²⁰ Oncor at 13; TNMP at 5-6 (Sep. 19, 2024).

²¹ *Id.*

²² Oncor at 13.

methods of receiving alerts. Excluding Spanish-speakers from this particular method of notification could significantly hinder their ability to receive useful information in an outage. Therefore, OPUC believes that concerns about additional costs or creating a nuisance for customers are outweighed by the need to ensure that outage alerts are accessible to all customers.

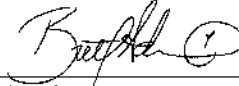
CONCLUSION

OPUC appreciates the opportunity to provide these comments and looks forward to working with Staff and other stakeholders on this project.

Date: October 3, 2024

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EXECUTIVE SUMMARY

OPUC agrees with TEAM and ARM that the goals of the present docket would be better addressed in Project No. 56897. The outage trackers currently proposed in Project No. 56897, make location-specific restoration information available to the public without requiring any transfer of customer data, so they are a more effective and less invasive method of accomplishing the Commission's goal of improving communication between TDUs and customers during an outage.

If the Commission chooses to proceed with the proposed rule, OPUC offers the following comments:

- OPUC supports ARM's recommendation that REPs only be required to provide email addresses under proposed subparagraph (A) if those email addresses are already available to the REP.
- OPUC disagrees with Oncor's and CenterPoint's recommendation that the types of information that TDUs may send using contact information received under the proposed rule should be expanded. Specifically, OPUC opposes CenterPoint's suggestion that TDU should be allowed to send a range of alerts using data obtained under the proposed rule.
- OPUC supports ARM's recommendation that subparagraph (D) should be further clarified to state that customer information provided under the proposed rule is also subject to the Code of Conduct for Electric Utilities and Their Affiliates. This clarification reinforces that the information used under the proposed rule should not, as a general rule, be sold, shared with a TDU's affiliates, or used to promote an affiliate's services or products.
- OPUC disagrees with Oncor's and TNMP's comment that the requirement for all communications to contain information in both English and Spanish should not apply to text messages.