

Witness Responsible: Ken Baker

(a) Request by Unitil Energy Systems, Inc.

Question: Please provide information, including any specific orders and any agreements between utilities and Wal-Mart, in which public utility commissions in other jurisdictions have allowed customers to use their own advanced meters at no additional charge.

Response: Wal-Mart has installed and operates its own advanced metering systems in 41 states. Wal-Mart has not yet installed advanced metering equipment in Oregon, Idaho, Wyoming, North Dakota, New Jersey, Massachusetts, New Hampshire, Vermont and Maine. To my knowledge, in all states in which Wal-Mart has installed its own advanced meters, Wal-Mart does not pay customer charges to the utility for advanced metering equipment. In some instances, however, Wal-Mart does pay an additional charge for the utility's main meter or when Wal-Mart requests access to the utility's metered data.

In Texas, for example, the Public Utility Commission adopted competitive metering rules which allow retail commercial and industrial customers to own their meters or, at their option, to obtain meters through the retail electric service provider ("REP"), the transmission and distribution utility ("TDU") or such other person authorized by the customer. *See* §25.311 (c); *see also* Rulemaking Related to Advanced Metering, Project No. 31418, at 100 (a copy of §25.311 applicable to Competitive Metering Services is attached hereto as "Attachment A"). The rules also require "ATDU" to file with the Commission a tariff that provides a competitive metering service credit to the REP of a customer that selects a meter owner other than the TDU. *See* §25.311(i); *see also* Rulemaking Related to Advanced Metering, Project No. 31418, at 103.

Wal-Mart also receives a meter rebate in Connecticut and New York. It is Wal-Mart's understanding that rebates are offered in other states as well.

Thus, it is Wal-Mart's position that customers should be allowed to install and use their own advanced meters. In those instances where the customer

owns its own meter, which is compatible with the utility's systems or meets certain established criteria, the utility need not install its own advanced meter or, if the utility chooses to install its own advanced meter in that instance, the customer should not be charged a fee for the utility's meter or the customer should receive a meter service credit.

(b) Request by Commission Staff:

Question: Please identify the states in which Wal-Mart participates in real-time pricing programs.

Response: Currently, Wal-Mart only participates in a real-time pricing program in Georgia Power Company's service territory. In the past, Wal-Mart has participated in several real-time pricing programs in other states but found that the real-time pricing structures did not provide accurate price signals to customers. For instance, in many jurisdictions, the utilities filed tariffs which allowed the utilities to reconcile pricing after-the-fact thereby creating uncertainty in pricing, which affects the ability of customers to manage and reduce their energy bills. In some instances, Wal-Mart was able to move to a special contract with the utility, which provided more favorable terms than the tariff on file.

Thus, Wal-Mart recommends the adoption of a real-time pricing model which is designed to provide accurate price signals to customers through fixed interval pricing. Wal-Mart suggests the use of technical sessions to work out details of the real-time pricing structure.

ATTACHMENT "A"

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter M. COMPETITIVE METERING.

§25.311. Competitive Metering Services.

- (a) **Purpose.** This section establishes the terms and conditions for competitive metering services to be offered to commercial and industrial customers served by an investor-owned transmission and distribution utility (TDU) beginning on January 1, 2004, as required by Public Utility Regulatory Act (PURA) §39.107(a), in areas where customer choice has been introduced. In areas where customer choice has been delayed, this section shall establish terms and conditions for competitive metering services to begin on a date determined by the commission, following the introduction of customer choice.
- (b) **Definitions.** The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.
- (1) **Commercial and industrial customers** -- Those customers that do not receive electric service under a residential distribution tariff.
  - (2) **Data management** -- Includes validation, estimation, editing, extraction of billing components, support of retail transactions described in the Electric Reliability Council of Texas (ERCOT) protocols, and transfer of meter reading data to the settlement agent and other approved entities specified by the ERCOT protocols.
  - (3) **Maintenance** -- Activities necessary to maintain a meter in proper working order, including failure investigation, equipment repair, and replacement.
  - (4) **Meter owner** -- Entity that owns the settlement and TDU billing meter that is used for the measurement of electric energy delivered to a particular location.
  - (5) **Metering services** -- Activities relating to the measurement, for the purpose of settlement and TDU billing, of electricity provided to a retail customer, including, but not limited to ownership, installation and removal, maintenance, testing and calibration, data collection, and data management.
  - (6) **Meter tampering** -- In areas where competitive metering has been introduced, meter tampering, bypass, or diversion is defined as tampering with a settlement and TDU billing meter or equipment, bypassing the same, or other instances of diversion, such as physically disorienting the meter; attaching objects to the meter to divert or bypass service; inserting objects into the meter; and other electrical and mechanical means of tampering with, bypassing, or diverting electrical service.
  - (7) **Testing** -- Activities as defined in §25.124 of this title (relating to Meter Testing).
- (c) **Meter ownership.** A commercial or industrial retail customer may choose a meter owner. The meter owner may be, at the option of the retail customer:
- (1) the retail customer;
  - (2) a retail electric provider (REP);
  - (3) the TDU; or
  - (4) other person authorized by the customer.
- (d) **Data ownership.** The current retail customer shall own all meter data related to the premise occupied by that customer, regardless of whether the meter owner is the customer, the owner of the premise, or a third party. A third-party owner of the meter shall have access to the meter data. To the extent that data integrity is not compromised, the current retail customer shall have the right to physical access to the meter to obtain such meter data when technically feasible. The current retail customer shall have the right and capability, including necessary security passwords, to assign access to meter data related to the premise occupied by that customer.

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#### §25.311 continued

- (e) **Metering equipment.**
- (1) No later than 60 days after the effective date of this section, ERCOT shall develop a process to establish, and periodically revise, a list of meters that shall be considered qualifying competitive meters for the purposes of this section. Each qualifying competitive meter shall meet commission-approved standards and shall be capable of providing the data necessary for billing in accordance with the TDU's delivery tariff and for settlement in accordance with the settlement agent's protocols.
  - (2) Requests for installation or removal shall be made to the TDU pursuant to the TDU's tariff.
- (f) **Conformance with metering standards.**
- (1) A meter that fails to meet commission-approved standards for accuracy shall not be placed in service or left in service. A meter found to violate these standards shall be adjusted or replaced in accordance with this subsection at the time the violation is discovered.
  - (2) Meters shall be adjusted as closely as practicable to the condition of zero error.
  - (3) If a meter owned by the TDU is found not to meet commission-approved standards for accuracy, the TDU shall install a replacement meter in accordance with its tariffs.
  - (4) If a meter that is not owned by the TDU is found not to meet commission-approved standards for accuracy, the TDU shall install a temporary replacement meter. The temporary replacement meter shall be capable of providing the data necessary for billing in accordance with the TDU's tariff, and shall also provide settlement data in accordance with the settlement agent's protocols. The TDU shall notify the customer and the meter owner that the meter does not meet commission-approved standards for accuracy and shall take reasonable measures to safeguard the meter until the meter owner takes possession of it. The meter owner shall be responsible for the associated charges, in accordance with the TDU's tariff.
- (g) **Testing of meters.** Costs for meter tests requested by the customer, REP, competitive meter owner, or TDU shall be the responsibility of the requesting party in accordance with the TDU's tariff, except that when a request is made to test a meter that is subsequently found not to meet commission-approved standards for accuracy, the cost of the meter test shall be the responsibility of the meter owner.
- (1) Upon request for a meter test by a retail customer, a REP shall request that a meter be tested in accordance with the TDU's applicable tariff.
  - (2) A REP may request that a meter be tested in accordance with the TDU's applicable tariff.
  - (3) A meter owner other than the retail customer may request that a meter be tested in accordance with the TDU's applicable tariff.
  - (4) If the TDU suspects a meter malfunction, it shall promptly test the meter in accordance with its tariff.
  - (5) Following the completion of any meter test, the TDU shall promptly advise the requestor, and the retail customer's REP of the date of removal of the meter, the date of the test, the result of the test, and who made the test.
- (h) **Use of meter data for settlement and TDU billing.**
- (1) **Both the TDU and the REP shall have the right and capability, including necessary security passwords, to access meter data for the purpose of rendering a bill, complying with settlement rules of an independent organization, and for load research and load profiling purposes. The TDU is responsible for the security of the data used for settlement and TDU billing and shall maintain the meter programming password capable of altering such billing parameters.**

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- (2) No entity other than the TDU shall have the right, capability, or meter programming password to alter the data collected by the meter for the purpose of TDU billing.

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**§25.311(h) continued**

- (3) A TDU's requirements for load research shall not have the effect of limiting the type or frequency of meter data available to an end-use customer.
  
- (i) **Competitive metering service credit.** ATDU shall file with the commission a tariff that provides a competitive metering service credit to the REP of a customer that selects a meter owner other than the TDU. Such tariff shall be accompanied by workpapers demonstrating the derivation of the credit.