

CHRISTI CRADDICK, *CHAIRMAN*
WAYNE CHRISTIAN, *COMMISSIONER*
JIM WRIGHT, *COMMISSIONER*



ALEXANDER C. SCHOCH, *GENERAL COUNSEL*

RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

MEMORANDUM

TO: Chairman Christi Craddick
Commissioner Wayne Christian
Commissioner Jim Wright

FROM: Haley Cochran, Assistant General Counsel
Office of General Counsel

THROUGH: Alexander C. Schoch, General Counsel

DATE: November 9, 2023

SUBJECT: Adopt Amendments to 16 TAC §7.460, Relating to Suspension of Gas Utility Service Disconnection During an Extreme Weather Emergency

Attached is Staff's recommendation to adopt amendments to 16 Texas Administrative Code §7.460, Relating to Suspension of Gas Utility Service Disconnection During an Extreme Weather Emergency. The amendments implement the requirements of Texas Utilities Code §105.023, which requires the Commission to adopt a classification table to guide courts in issuing civil penalties against gas utilities who violate Texas Utilities Code §104.258(c).

On September 19, 2023, the Commission approved the publication in the *Texas Register* of proposed amendments to §7.460 and proposed new rule §7.480, relating to Energy Conservation Programs. The public comment period ended on October 25, 2023. Staff recommends that the Commission adopt the amendments to §7.460 with changes to the proposed text published in the October 6, 2023, issue of the *Texas Register* (48 TexReg 5796). Proposed new rule §7.480 will be addressed in a future action.

The recommended changes to §7.460 are described in the attached adoption preamble.

cc: Wei Wang, Executive Director
Kari French, Director, Oversight and Safety Division
Mark Evarts, Director, Gas Services Section
Sarah Montoya-Foglesong, Director, Market Oversight Section
Natalie Dubiel, Assistant General Counsel, Office of General Counsel

1 The Railroad Commission of Texas (the "Commission") adopts amendments to §7.460, relating to
2 Suspension of Gas Utility Service Disconnection During an Extreme Weather Emergency, with changes to the
3 proposed text as published in the October 6, 2023, issue of the *Texas Register* (48 TexReg 5796). The
4 Commission adopts the amendments pursuant to Texas Utilities Code §105.023, which requires the Commission
5 to adopt a classification table to guide courts in issuing civil penalties against gas utilities who disconnect
6 service to residential customers during an extreme weather emergency. In that same issue of the *Texas Register*,
7 the Commission proposed new §7.480 relating to Energy Conservation Programs, pursuant to House Bill 2263,
8 88th Legislative Session (2023). The Commission will address proposed §7.480 in a future action.

9 Regarding the proposed amendments to §7.460, the Commission received six comments, two from
10 associations (Commission Shift and the Lone Star Chapter of the Sierra Club), three from companies (Atmos
11 Energy Corporation (Atmos Energy), CenterPoint Energy Resources Corp. (CenterPoint), and Texas Gas
12 Service Company (Texas Gas)), and one from the Office of Public Utility Counsel (OPUC). The Commission
13 appreciates these comments.

14 The Lone Star Chapter of the Sierra Club and OPUC commented in support of the changes to §7.460.
15 The Commission appreciates the support of these commenters.

16 Atmos Energy and CenterPoint commented that the governing statute directs the Commission to
17 establish a classification system to be used for violations of Texas Utilities Code §104.258(c), which
18 encompasses two violations. One violation was addressed in the proposed rule (disconnection during an extreme
19 weather emergency), but the other violation was not. The Commission agrees that the second violation
20 (demanding collection of full payment of bills due during an extreme weather emergency) should be included in
21 the classification system. To address this comment, the Commission adopts in new subsection (f) the language
22 and Figure proposed in subsection (b)(1). Subsection (f) provides that the Office of the Attorney General of
23 Texas on its own initiative or at the request of the Commission may file suit to recover a civil penalty for
24 violation of subsection (b)(1) or (c) of §7.460. The classification table is adopted with a change to include
25 violations of §7.460(c) (demanding collection of full payment of bills due during an extreme weather
26 emergency) and outlines certain violation factors and values for each factor to determine the dollar amount of
27 penalties to be sought.

28 Commission Shift commented that the Commission should consider a strict classification guide for the
29 issuing of penalties, including the period in between extreme weather emergencies when companies can and will
30 rush to disconnect prior to another emergency even if expected soon. The Commission disagrees with this
31 comment and makes no change; the statutory language in Texas Utilities Code §104.258(c) does not prohibit
32 disconnection in between extreme weather emergencies.

33 Texas Gas Service commented that subsection (d) should be broadened to clearly permit electronic
34 notice. The Commission notes that it did not propose amendments related to notice requirements, so this
35 comment is outside the scope of this rulemaking; however, the rule does not prohibit electronic notice.

1 In addition to the changes being adopted in subsections (b)(1) and (f) previously discussed, amendments
2 in subsection (b)(1) clarify the actions that constitute a violation. The Commission makes no changes to the
3 language proposed in subsection (b)(1) other than to move the classification table and corresponding language to
4 subsection (f).

5 The Commission adopts the amendments pursuant to Texas Utilities Code, §104.258 and §105.023.

6 Statutory authority: Texas Utilities Code, §104.258 and §105.023.

7 Cross-reference to statute: Texas Utilities Code, Chapters 104 and 105.

8
9 **§7.460. Suspension of Gas Utility Service Disconnection During an Extreme Weather Emergency.**

10 (a) Applicability and scope. This rule applies to gas utilities, as defined in Texas Utilities Code,
11 §101.003(7) and §121.001, and to owners, operators, and managers of mobile home parks or apartment houses
12 who purchase natural gas through a master meter for delivery to a dwelling unit in a mobile home park or
13 apartment house, pursuant to Texas Utilities Code, §§124.001-124.002, within the jurisdiction of the Railroad
14 Commission pursuant to Texas Utilities Code, §102.001. For purposes of this section, all such gas utilities and
15 owners, operators and managers of master meter systems shall be referred to as "providers." Providers shall
16 comply with the following service standards. A gas distribution utility shall file amended service rules
17 incorporating these standards with the Railroad Commission in the manner prescribed by law.

18 (b) Disconnection prohibited. Except where there is a known dangerous condition or a use of natural gas
19 service in a manner that is dangerous or unreasonably interferes with service to others, a provider shall not
20 disconnect natural gas service in the following circumstances. [~~to:~~]

21 (1) A provider shall not disconnect a delinquent residential customer during an extreme weather
22 emergency. An extreme weather emergency means a day when the previous day's highest temperature did not
23 exceed 32 degrees Fahrenheit and the temperature is predicted to remain at or below that level for the next 24
24 hours according to the nearest National Weather Station for the county where the customer takes service.

25 (2) A provider shall not disconnect a delinquent residential customer for a billing period in
26 which the provider receives a written pledge, letter of intent, purchase order, or other written notification from
27 an energy assistance provider that it is forwarding sufficient payment to continue service. [~~to:~~]

28 (3) A provider shall not disconnect a delinquent residential customer on a weekend day, unless
29 personnel or agents of the provider are available for the purpose of receiving payment or making collections and
30 reconnecting service.

31 (c) Payment plans. Providers shall defer collection of the full payment of bills that are due during an
32 extreme weather emergency until after the emergency is over, and shall work with customers to establish a
33 payment schedule for deferred bills as set forth in §7.45 of this title (relating to Quality of Service).

34 (d) Notice. Beginning in the September or October billing periods utilities and owners, operators, or
35 managers of master metered systems shall give notice as follows:

1 (1) Each utility shall provide a copy of this rule to the social services agencies that distribute
2 funds from the Low Income Home Energy Assistance Program within the utility's service area.

3 (2) Each utility shall provide a copy of this rule to any other social service agency of which the
4 provider is aware that provides financial assistance to low income customers in the utility's service area.

5 (3) Each utility shall provide a copy of this rule to all residential customers of the utility and
6 customers who are owners, operators, or managers of master metered systems.

7 (4) Owners, operators, or managers of master metered systems shall provide a copy of this rule
8 to all of their customers.

9 (e) In addition to the minimum standards specified in this section, providers may adopt additional or
10 alternative requirements if the provider files a tariff with the Commission pursuant to §7.315 of this title
11 (relating to Filing of Tariffs). The Commission shall review the tariff to ensure that at least the minimum
12 standards of this section are met.

13 **(f) In accordance with Texas Utilities Code §105.023, the Office of the Attorney General of Texas**
14 **on its own initiative or at the request of the Commission may file suit to recover a civil penalty for a**
15 **violation of subsection (b)(1) or (c) of this section. The table in this subsection contains a classification**
16 **system to be used by a court when such a suit is filed.**

17 **Figure: 16 TAC §7.460(f)**

18 This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be
19 a valid exercise of the agency's legal authority.

20 Issued in Austin, Texas, on November 15, 2023.

21 Filed with the Office of the Secretary of State on November 15, 2023.

DocuSigned by:
Christi Craddick
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Christi Craddick, Chairman

DocuSigned by:
Wayne Christian
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Wayne Christian, Commissioner

DocuSigned by:
Jim Wright
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Jim Wright, Commissioner

ATTEST DocuSigned by:
Callie Farrar
3581C80DFDE0476...
Secretary of the Commission

DocuSigned by:
Haley Cochran
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Haley Cochran

**Railroad Commission of Texas
16 TAC Chapter 7--Gas Services**

**Assistant General Counsel
Office of General Counsel
Railroad Commission of Texas**

Figure: 16 TAC §7.460(f)

Classification System

Violation Factors	Factor Value (1-4)	Points Tally
Customer is disconnected in violation of subsection (b)(1) of this section for 24 hours or more	4	
Customer is disconnected in violation of subsection (b)(1) of this section for less than 24 hours, but more than 12 hours	3	
Customer is disconnected in violation of subsection (b)(1) of this section for 12 hours or less	2	
Demand for collection of full payment of bills due is made during an extreme weather emergency	3	
The temperature is 10 degrees or less during the period of disconnection	4	
The temperature is more than 10 degrees but less than or equal to 20 degrees during the period of disconnection	3	
The temperature is more than 20 degrees but less than or equal to 32 degrees during the period of disconnection	2	
Repeat violations based on provider's history of compliance	3	
Good faith effort to remedy violation	-2	
No effort to remedy violation during the extreme weather emergency	4	
		Total
		Penalty maximum per violation
10 points or more = Class A violation		More than \$5,000 ¹
7-9 points = Class B violation		\$5,000
4-6 points = Class C violation		\$4,000
1-3 points = Class D violation		\$3,000

¹ Pursuant to Utilities Code §105.023(f), the required classification system shall provide that a penalty in an amount that exceeds \$5,000 may be recovered only if the violation is included in the highest class of violations in the classification system.