

**PUBLIC UTILITY COMMISSION OF TEXAS STANDARD IRREVOCABLE
GUARANTY AGREEMENT FOR RETAIL ELECTRIC PROVIDERS**

WHEREAS, _____ [insert name of retail electric provider or retail electric provider applicant] (“REP”) has filed with the Public Utility Commission of Texas (“Commission”) an application for retail electric provider certification or an application to amend retail electric provider certificate no. _____ [insert certificate number, if applicable] pursuant to 16 Texas Administrative Code (“TAC”) § 25.107 (relating to Certification and Obligations of Retail Electric Providers (REPs)).

WHEREAS, REP may satisfy the Commission’s access to capital requirements for retail electric provider certification by relying upon a guarantor that meets the requirements of 16 TAC § 25.107(f)(1)(A).

WHEREAS, this Guaranty Agreement (“Guaranty”), dated as of _____ [insert date], is made by _____ [insert name of guarantor] (“Guarantor”) and REP for the benefit of the Commission.

WHEREAS, the Guaranty expires on _____ [insert date].

WHEREAS, Guarantor meets the requirements of 16 TAC § 25.107(f)(1)(A).

NOW THEREFORE, in consideration of and in order to induce the Commission to grant retail electric provider certification to or to amend the existing certification of REP, Guarantor hereby covenants and agrees to the following provisions:

(a) Guaranty. Guarantor hereby unconditionally and irrevocably guarantees the full and timely payment to the Commission of an amount of up to \$1,500,000, for the purpose of discharging all financial obligations, liabilities, and debts of the REP (collectively, the “Obligations”) as required under the Commission’s rules and orders, including:

- (1) payment of low-income residential customer deposits, identified by the Low-Income Administrator under 16 TAC § 25.45 (relating to Low-Income List Administrator), to REPs that volunteer to provide service in a mass transition event;
- (2) payment of low-income residential customer deposits, identified by the Low-Income Administrator under 16 TAC § 25.45, to REPs that are designated to provide service in a mass transition event;
- (3) payment of residential customer deposits to REPs that volunteer to provide service in a mass transition event, and payment of residential customer deposits to REPs that are designated to provide service in a mass transition event;
- (4) payment for services provided by the independent organization related to serving customer load;
- (5) payment for services provided by a transmission and distribution utility; and
- (6) payment of administrative penalties assessed under PURA or Commission rules.

(b) Term. This Guaranty is irrevocable and effective for a period of one year and will be deemed automatically extended without amendment for additional one-year periods from the present or any future expiration date unless, at least 90 days prior to any such date, Guarantor provides the Commission with written notice delivered to the Commission's mailing address by overnight courier that Guarantor has elected not to extend this Guaranty beyond the initial expiration date or any extended expiration date thereof. To the extent Guarantor elects not to extend the term of the Guaranty, the effective date of the Guaranty's expiration will be the day following the date upon which the Guaranty would have otherwise been deemed to renew. Under no circumstances may Guarantor terminate the Guaranty at any time prior to the annual date of renewal or expiration.

(c) Termination. This Guaranty will be a continuing guaranty of payment and not of collection, and will terminate and be of no further force and effect in the event that:

- (1) An application to amend REP's certificate to reflect another means of satisfying the financial qualifications under 16 TAC § 25.107(f)(1) is approved by the Commission through an order that has become final;
- (2) An application to relinquish REP's certificate is approved by the commission through an order that has become final; or
- (3) The Guarantor has provided the Commission with notice of intent not to extend the Guaranty at least 90 days prior to the next applicable expiration date, and Commission Staff has provided acknowledgment that the notice has been received by the Commission. The Commission must sign the notice of the Guarantors intent not to extend the Guaranty to confirm the notice was received at least 90 days prior to the expiration date.

To the extent that Guarantor qualifies to serve as REP's guarantor by virtue of its relationship with REP as REP's affiliate, wholesale power provider, or wholesale power provider's affiliate, termination of the underlying relationship does not terminate the Guaranty. If such a relationship is terminated and Guarantor seeks to terminate the Guaranty, Guarantor must follow the procedure outlined in paragraph (b) and subparagraph (c)(3).

(d) Governing Law. This Guaranty will be governed by, and construed in accordance with, the laws of the state of Texas, without regard to conflicts of laws principles.

(e) Payment Demand. Following the occurrence of one or more of the circumstances identified under 16 TAC § 25.107(f)(5), the Commission may make one or several demands for payment upon Guarantor for the purpose of satisfying all or part of REP's Obligations (hereafter, "Payment Demand"), and Guarantor will pay or cause REP to pay such Payment Demand within five working days. The Payment Demand will be in writing and will specify the amount of the Payment Demand and include a statement that the Commission demands Guarantor to remit the specified payment to the Commission under this Guaranty. The Payment Demand will identify the bank, bank routing number, and bank account number to which the funds should be wire transferred, along with any other information that may be necessary to effectuate the wire transfer.

(f) Representations and Warranties. Guarantor represents and warrants that:

- (1) It is a _____ **[insert type of legal business structure/ organization]** duly organized and validly existing under the laws of _____ **[insert name of state or country where Guarantor is organized]** and has the power and authority to execute, deliver, and carry out the terms and provisions of this Guaranty;
- (2) No authorization, approval, consent, or order of, or registration or filing with any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution and delivery of this Guaranty;
- (3) Irrespective of the financial status of REP, Guarantor currently maintains and will continue to maintain the access to capital requirements required under 16 TAC § 25.107(f)(1)(A), and that Guarantor will comply with any Commission request or order that Guarantor demonstrate compliance with these requirements; and
- (4) This Guaranty, when executed, will constitute a valid and legally binding agreement of Guarantor, except to the extent the enforceability of this Guaranty may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally and by general principles of equity as ordered by a court of competent jurisdiction.

(g) Setoffs and Counterclaims. Guarantor reserves to itself all rights, setoffs, counterclaims, and other defenses to which REP may be entitled other than defenses arising from the bankruptcy or insolvency of REP.

(h) Subrogation. Upon the payment of any part of the Obligations, Guarantor will be subrogated to the rights of the Commission with respect to any and all such payments made by Guarantor hereunder.

(i) Waivers. Guarantor hereby waives promptness, diligence, presentment, demand of payment, protest, order, and notice (except as set forth herein) in connection with Guarantor's obligations under this Guaranty. Guarantor also hereby waives any requirement that the Commission exhaust any right to take any action against REP or any other person prior to or contemporaneously with exercising any right against Guarantor under this Guaranty. Commission will not be deemed to have waived any provision of this Guaranty unless such waiver is in writing and is signed by Commission.

(j) Successors and Assignment. This Guaranty binds Guarantor and its successors, and will inure to the benefit of Commission and all personal representatives and successors of Commission. REP will apply to amend its certification in accordance with 16 TAC § 25.107(h)(2) if this Guaranty is or will be held by a successor. This Guaranty cannot be assigned.

(k) Entire Agreement. This guaranty agreement constitutes the entire agreement between Guarantor and REP, and supersedes and terminates any prior agreements, amendments, and understandings relating to the matters set forth herein.

(I) Notice. Any notice, request, instruction, correspondence, or other document to be given to the Commission or any party hereunder (hereafter, "Notice") will be in writing and will be delivered by overnight courier to:

Public Utility Commission of Texas
1701 N. Congress Ave.
Austin, TX 78711

Name of Guarantor:
Guarantor Address:

Notice will be effective upon actual receipt.

IN WITNESS WHEREOF, Guarantor and REP has caused this guaranty agreement to be executed on the date set forth below in its corporate name and by its authorized representative.

(name of Guarantor)

By _____

Title _____

Date _____