Electricity Submetering for Multi-Unit Facilities

(a) Purpose. This section implements XXXX Utilities Code XXXX. This section shall apply to multi-unit facilities, to include dwelling units, apartment housing, assisted living facilities, senior living facilities, parking facilities, electric vehicle charging stations, campgrounds, marinas, recreational trailer parks, boat hookups, and other facility types as deemed appropriate by the State Department of XXXX.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

1. **Apartment house** - One or more buildings containing more than five dwelling units, each of which is rented primarily for non-transient use with rent paid at intervals of one week or longer. The term includes a rented or submeterer-occupied residential condominium or cooperative apartment.

2. **Assisted Living Facilities** - Multi-unit residential premises, identified as assisted living facilities and certified by the XXXX State Department of Health as such, which provide congregate residential housing with supportive services, including on-site monitoring, and personal care services and/or home care services in a homelike setting.

3. **Campground, recreational trailer park, marinas, and parking facilities** - Facilities for use on an intermittent, temporary, or irregular basis by campground, recreational, trailer park, marina, or vehicle charging stations where electric service is delivered by the utility to the facility submeterer and redistributed to individual campsites, trailers, boats or plug-in electric vehicle charging stations with or without submetering.

4. **Condominium** - Separate ownership of individual units in a multi-unit residential premises. Each unit submeterer holds title to a unit of real property and also owns a common tenancy with owners of other units for the common areas of the building, which are managed by a homeowners' association, or as established in the condominium bylaws.

5. **Cooperative Apartment** - Multi-unit residential premises in which residents own a share in the corporation that owns the real estate, which entitles the shareholder to occupy a dwelling unit. Each shareholder is granted the right to occupy one housing unit through an occupancy agreement, which is similar to a lease. A board of directors manages the cooperative.

6. **Direct Metering** - In multi-unit residential premises, the measurement of electricity use in each unit through a meter that has been provided by the distribution utility company, wherein each individual residential unit is assigned its own meter.

7. **Dwelling Unit** - One or more rooms suitable for occupancy as a residence and that contain kitchen and bathroom facilities, or a mobile home in a mobile home park.

8. **Electric Heating** - Heat provided to an entire living space with electricity primarily by means of nonportable electric heating appliances.

9. **Electric Submetering** - A system of measuring electricity use by a submeterer in a master-metered multi-unit facility by means of a submeter installed on the wiring to each unit.

10. **Electrical Submeter** - An electrical meter or meter system downstream of the master meter.

11. **Master Meter** - A meter used to measure, for billing purposes, all electric usage of an apartment house or mobile home park, including common areas, common facilities, and dwelling units.
(12) **Month or monthly** - The period between any two consecutive meter readings by the utility, either actual or estimated, at approximately 30-day intervals.

(13) **Rate cap** - The maximum rate, calculated in each billing period, that may be used to compute the charges for electric service to a submetered resident. Unless a different rate cap is set the rate cap shall be the rates and charges of the distribution utility, and approved by the XXXX Public Utility Commission, for delivery and commodity in that billing period to similarly situated, direct metered residential customers. Where residents are billed for time-of-use, the maximum rate for purposes of calculating 1 the rate cap shall be the average annual residential rate.

(14) **Resident** - The occupant of a unit used as a home in a multi-unit residential premises.

(15) **Senior Living Facility** - Multi-unit residential premises in which energy-efficient housing and other services are provided, and will be provided in the future, to resident senior citizens, in which electric usage does not vary significantly from unit to unit because units are uniform in size and in the types of appliances, and which promotes economic development.

(16) **Submeterer** - Any multi-unit residential premises owner or utility customer of record who purchases electricity for delivery by the utility to the premises and facilitates the sale or redistribution of such electricity for use by the premises occupants whose units are separately metered and billed based on the measurement of electricity use in each occupant’s unit. Any entity acting on behalf of such owner that arranges for the installation of submeters and the billing of submetered usage to individual residents shall be considered the agent of the submeterer. The submeterer may engage the services of a submetering service provider to install meters, read meters and/or handle billing.

(17) **Submetering** - A system of measuring utility use by a submeterer in a master metered multi-unit facility by means of a submeter installed on each unit.

(18) **Time-of-use meter** - A meter that registers accumulated energy consumption (data) over specific time intervals.

(19) **Time-of-use rates** - The pricing of electricity based on actual usage during particular time intervals. Time-of-use rates may be applicable to blocks of time over a 24 hour period.

(20) **Utility customer** - For purposes of this Part, an electricity consumer whose use of electricity is directly metered by the distribution utility and is a customer of record of the distribution utility.

(c) **Records and reports.**

(1) The submeterer shall maintain and make available for inspection by the tenant the following records:

(A) the billing from the utility or retail electric provider to the apartment submeterer for the current month and the 12 preceding months;

(B) the calculation of the cost per billing unit or, i.e., kilowatt-hour for the current month and the 12 preceding months;

(C) all submeter readings and tenant billings for the current month and the 12 preceding months;

(D) all submeter test results for the current month and the 12 preceding months.
(2) Records shall be made available at the resident manager’s office during reasonable business hours or, if there is no resident manager, at the dwelling unit of the tenant at the convenience of both the submeterer and tenant.

(3) All records shall be made available to the XXXX upon request.

(d) Billing. All rental agreements between the submeterer and the tenants shall clearly state that the dwelling unit is submetered, that the bills will be issued thereon, that electrical consumption charges for all common areas and common facilities will be the responsibility of the submeterer and not of the tenant, or part of the monthly rent or common charges and that any disputes relating to the computation of the tenant’s bill and the accuracy of the submetering device will be between the tenant and the submeterer. Each submeterer shall provide a tenant, at the time the lease is signed, a copy of this section or a narrative summary as approved by the XXXX to assure that the tenant is informed of his rights and the submeterer’s responsibilities under this section.

1. Rendering and form of bill.
   (A) Bills shall be rendered for the same billing period as that of the electric utility, generally monthly, unless service is rendered for less than that period. Bills shall be rendered as promptly as possible following the reading of the submeters. The submeters shall be read within three days of the scheduled reading date of the electric utility’s master meter.
   (B) The billing unit shall be that used by the electric utility in its billing to the submeterer.

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(C) The submeterer shall be responsible for determining that the energy billed to any dwelling unit shall be only for that submetered and consumed within that unit.

(D) Submetered billings may be included as part of the rental payment or as part of billings for any other service to the tenant as long as it is a separate line item on the bill. A separate billing may be issued or, if issued on a multi-item bill, submetered billing information must be separate and distinct from any other charges on the bill and conform to information required in subparagraph (H) of this paragraph. The submetered bill must clearly state “submetered electricity.”

(E) The bill shall reflect only submetered usage. Allocation of central systems for air conditioning, heating and hot water is not prohibited by this section.

(F) The submeterer shall not impose any extra charges on the tenant over and above those charges approved for in the rate cap, with the exception of administration fees approved by the XXXX Public Utility Commission. The bill may not include a deposit, late penalty, reconnect charge, or any other charges unless otherwise provided for by these sections.

   (i) A one-time penalty not to exceed 10% may be made on delinquent accounts. If the penalty is applied, the bill shall indicate the amount due if paid by the due date and 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 which states the exact dollar or percentage amount of the late penalty.
(ii) In a mobile home park a reconnect fee may be applied for a mobile home not leased by the mobile home park submeterer if service to the pad site tenant is disconnected for non-payment of submetered bills in accordance with subsection (e)(1) of this section. Such reconnect fee shall be calculated based on the average actual cost to the submeterer for the expenses associated with the reconnection, but under no circumstances shall exceed $XX. No reconnect charge may be applied unless agreed to by the tenant in a written lease which states the exact dollar amount of such reconnect charge.

(G) The tenant’s submeter bills shall be calculated in one of the two following manners: after the electric bill is received from the utility the submeterer may divide the net total charges for electrical consumption, plus applicable tax, by the total number of kilowatt-hours to obtain an average cost per kilowatt-hour or using the rate cap. Either average kilowatt-hour cost or rate cap may then be multiplied by each tenant’s kilowatt-hour consumption to obtain the charge to the tenant. The computation of the cost per kilowatt-hour shall not include any penalties charged by the utility or the retail electric provider to the submeterer for disconnect, reconnect, late payment, or other similar service charges.

(H) The tenant’s electric submeter bill shall show all of the following information:

(i) the date and reading of the submeter at the beginning and at the end of the period for which the bill is rendered;
(ii) the number of billing units metered;
(iii) the computed rate per billing unit;
(iv) the total amount due for electricity used;
(v) a clear and unambiguous statement that the bill is not from the utility or retail electric provider, which shall be named in the statement;
(vi) the name and address of the tenant to whom the bill is applicable;
(vii) the name of the firm rendering the submetering bill and the name or title, address, and telephone number of the person or persons to be contacted in case of a billing dispute;
(viii) the date by which the tenant must pay the bill; and
(ix) the name, address, and telephone number of the party to whom payment is to be made.

(2) Due date. The due date of the bill shall not be less than fifteen days after issuance. A bill for submetered service is delinquent if not received by the party indicated on the bill by the due date. The postmark date, if any, on the envelope of the bill or on the bill itself shall constitute proof of the date of issuance. An issuance date on the bill shall constitute proof of the date of issuance if there is no postmark on the envelope or bill. If the due date falls on a holiday or weekend, the due date for payment purposes shall be the next workday after the due date.

(3) Disputed bills. In the event of a dispute between the tenant and the submeterer regarding any bill, the submeterer shall promptly make an investigation as shall be required by the particular case and report the results to the tenant. The investigation and report shall be completed within 30 days from the date the tenant notified the submeterer of the dispute.

(4) Tenant access to records. The tenants of any dwelling unit whose electrical consumption is submetered shall be allowed by the submeterer to review and copy the master billing for the current month’s billing period and for the 12 preceding months, and all submeter
readings of the entire apartment house or mobile home park for the current month and for the 12 preceding months.

(5) **Estimated bills.** Estimated bills shall not be rendered unless the meter has been tampered with, data cannot be collected for over two months, or is out of order, and shall be distinctly marked “estimated bill”.

(6) **Overbilling and underbilling.** If submetered billings are found to be in error, the submeterer shall calculate a billing adjustment. If the tenant is due a refund, an adjustment shall be made for the entire period of the overcharges. If the tenant was undercharged, the submeterer may backbill the tenant for the amount which was underbilled. The backbilling is not to exceed six months unless the submeterer can produce records to identify and justify the additional amount of backbilling. If the underbilling is $100 or more, the submeterer shall offer to the tenant a deferred payment plan option, for the same length of time as that of the underbilling.

However, in a mobile home park, the mobile home park submeterer may not disconnect electric service to a mobile home not leased by the mobile home park submeterer if the pad site tenant fails to pay charges arising from an underbilling more than six months prior to the date the tenant was initially notified of the amount of the undercharges and the total additional amount due. Furthermore, adjustments for usage by a previous tenant may not be backbilled to the current tenant.

(7) **Level and average payment plans.** A submeterer may offer a level payment plan or average payment plan consistent with this paragraph.

(A) The payment plan may be one of the following methods:

(i) A level payment plan allowing eligible tenants to pay on a monthly basis a fixed billing rate of one-twelfth of that tenant’s estimated annual consumption at the appropriate rates, with provisions for quarterly adjustments as may be determined based on actual usage.

(ii) An average payment plan allowing tenants to pay on a monthly basis one-twelfth of the sum of that tenant’s current month’s consumption plus the previous 11 month’s consumption (or an estimate thereof, for a new customer) at the appropriate customer class rates, plus a portion of any unbilled balance. Provisions for annual adjustments as may be determined based on actual usage shall be provided. If at the end of a year the submeterer determines that he has collected an amount different than he has been charged by the utility or retail electric provider, the submeterer must refund any overcollection and may surcharge any under collection over the next year.

(B) Under either of the plans outlined in subparagraph (A) of this paragraph the submeterer is prohibited from charging the tenant any interest that may accrue. Any seasonal overcharges or undercharges will be carried by the submeterer of the complex.

(C) A mobile home park submeterer may disconnect service to a mobile home not leased by the mobile home park submeterer, pursuant to subsection (e) of this section, if the pad site tenant does not fulfill the terms of a level payment plan or an average payment plan.

(D) The submeterer may collect a deposit from all tenants entering into level payment plans or average payment plans; the deposit will not exceed an amount equivalent to one-sixth of the estimated annual billing. Notwithstanding any other provision in these sections, the submeterer may retain said deposit for the duration of the
level or average 1 payment plan; however, the submeterer shall pay interest on the
deposit.

(e) Discontinuance of electric service.

(1) Application. This subsection applies only to mobile homes in a mobile home park
that are not leased by the mobile home park submeterer. Disconnection of any other dwelling
unit by the submeterer is governed by XXXXXXXX

(2) Disconnection for delinquent bills.

(A) Electric service may be disconnected only for nonpayment of electric bills. A
pad site tenant’s electric service may be disconnected if a bill has not been paid within
XX days from the date of issuance and proper notice has been given. Proper notice shall
consist of a separate mailing or hand delivery at least five days prior to a stated date of
disconnection, with the words “termination notice” or similar language prominently
displayed on the notice. The notice shall include the office or street address where a
tenant can go during normal working hours to make arrangements for payment of the bill
and for reconnection of service.

(B) Under these provisions, a pad site tenant’s electric service may be
discontinued only for nonpayment of electric service.

(3) Disconnection on holidays or weekends. Unless a dangerous condition exists, or
unless the pad site tenant requests disconnection, electric service shall not be disconnected on a
day, or on a day immediately preceding a day, when personnel of the mobile home park are not
available for the purpose of making collections and reconnecting electric service.

(4) Disconnection under special circumstances.

(A) Disconnection of ill and disabled. A mobile home park submeterer shall not
disconnect electric service to a pad site tenant when that tenant establishes that
disconnection of electric service will cause some person residing at the tenant’s mobile
home to become seriously ill or more seriously ill;

(i) Each time a pad site tenant seeks to avoid disconnection of electric
service under this subparagraph, the tenant must accomplish all of the following
by the stated date of disconnection:

(I) have the person’s attending physician (for purposes of this
subsection, the term “physician” shall mean any public health official,
including medical doctors, doctors of osteopathy, nurse practitioners,
registered nurses, and any other similar public health official) call or
contact the mobile home park submeterer by the stated date of
disconnection.

(II) have the person’s attending physician submit a written
statement to the mobile home park submeterer; and

(III) enter into a deferred payment plan.

(ii) The prohibition against electric service termination provided by this
subparagraph shall last 63 days from the issuance of the electric bill or a shorter
period agreed upon by the mobile home park submeterer and the customer or
physician.

(B) Disconnection of energy assistance clients. A mobile home park submeterer
shall not disconnect electric service to a pad site tenant for a billing period in which the
mobile home park submeterer receives a pledge, letter of intent, purchase order, or other
notification that the energy assistance provider is forwarding sufficient payment to continue service; and

(C) Disconnection during extreme weather. A mobile home park submeterer shall not disconnect electric service to a pad site tenant on a day when:

(i) the previous day’s highest temperature did not exceed 32 degrees Fahrenheit, and the temperature is predicted to remain at or below that level for the next 24 hours, according to the nearest National Weather Service (NWS) reports; or

(ii) the NWS issues heat advisory for any county in which the mobile home park is located, or when such advisory has been issued on any one of the preceding two calendar days.

(f) Submeters.

(1) Submeter requirements.

(A) Use of submeter. All electrical energy sold by a submeterer shall be charged for by meter measurements.

(B) Installation by submeterer. Unless otherwise authorized by XXXX, each submeterer shall be responsible for providing, installing, and maintaining all submeters necessary for the measurement of electrical energy to its tenants.

(2) Submeter records. Each submeterer shall keep the following records:

(A) Submeter equipment record. Each submeterer shall keep a record of all of its submeters, showing the tenant’s address and date of any test.

(B) Records of submeter tests. All submeter tests shall be properly referenced to the submeter record provided in this section. The record of each test made shall show the identifying number of the submeter, the standard meter and other measuring devices used, the date and kind of test made, by whom made, the error (or percentage of accuracy), and sufficient data to permit verification of all calculations.

(3) Submeter unit indication. Each meter shall have a display [or alternate access methods] that indicates clearly the kilowatt-hours consumed by the tenant.

(4) Submeters calibrated to register a fixed fraction of the electricity consumed. Those submeters should display the meter register multiplier which will be used to determine the resident’s actual kilowatt hour usage. Any register multiplier used should be indicated on resident bills.

(5) Submeter tests on request of tenant. Each submeterer shall, upon the request of a tenant, and if the tenant so desires, in the tenant’s or the tenant’s authorized representative’s presence, make a test of the accuracy of the tenant’s submeter. The test shall be made during reasonable business hours at a time convenient to the tenant desiring to observe the test. If the submeter tests within the accuracy standards for self-contained watt hour meters as established by the latest edition of American National Standards Institute, Incorporated, (ANSI), Standard C12.1-2014 (American National Code for Electricity Metering), a charge of no less than $250 may be charged the tenant for making the test. However, if the submeter’s accuracy is not within the appropriate accuracy standards, no charge shall be made to the tenant for making the test. Following completion of any requested test, the submeterer shall promptly advise the tenant of the results of the test.

(6) Bill adjustment due to submeter error. If any submeter is found not to be within the accuracy standards in subsection (f)(5) of this section proper correction shall be made of previous readings. An adjusted bill shall be rendered in accordance with subsection (d)(6) of this.
section. If a submeter is found not to register for any period, unless bypassed or tampered with, the submeterer may make a charge for units used, but not metered, for a period not to exceed two months based on amounts used under similar conditions during periods preceding or subsequent thereto, or during the corresponding period in previous years.

(7) Location of submeters. Submeters shall be installed in a location readily accessible for reading, testing, and inspection, with minimum interference and inconvenience.

(8) Submeter testing facilities and equipment.

(A) Qualified expert. Each submeterer engaged in electric submetering shall engage an independent qualified expert to provide such instruments and other equipment and facilities as may be necessary to make the submeter tests required by this section. Such equipment and facilities shall generally conform to the ANSI, Standard C12.1-2014, and/or NEMA 5ESM, unless otherwise prescribed, and shall be available at all reasonable times for the inspection by its authorized representatives.

(B) Portable standards. Each submeterer engaged in electrical submetering shall, unless specifically excused by XXXX, provide or utilize a testing firm which provides portable test instruments as necessary for testing billing submeters.

(C) Reference standards. Each submeterer shall provide or have access to suitable indicating instruments as reference standards for insuring the accuracy of shop and portable instruments used for testing billing submeters.

(D) Testing of reference standards. All reference standards shall be submitted once each year or on a scheduled basis approved by the commission to a standardizing laboratory of recognized standing, for the purpose of testing and adjustment.

(E) Calibration of test equipment. All shop and portable instruments used for testing billing submeters shall be calibrated by comparing them with a reference standard at least every 120 days during the time such test instruments are being regularly used. Test equipment shall at all times be accompanied by a certified calibration card signed by the proper authority, giving the date when it was last certified and adjusted. Records of certifications and calibrations shall be kept on file in the office of the submeterer.

(9) Accuracy requirements for submeters.

(A) Limits. No submeter that exceeds the test calibration limits for self-contained watt-hour meters as set by the ANSI, Standard C12.1-2014 Section 5.1.1.2 (Acceptable Performance); and/or NEMA 5ESM, shall be placed in service or left in service. All electrical current transformers, potential transformers, or other such devices used in conjunction with an electric submeter shall be considered part of the submeter and must also meet test calibration and phase angle limits set by the ANSI Standard C12.1-2014, and the Institute of Electrical and Electronics Engineers (IEEE) Standard C57.13-2016 and/or NEMA 5ESM for revenue billing. A nameplate shall be attached to each transformer and shall include or refer to calibration and phase angle data and other information required by the ANSI Standard C12.1-2014, and/or the IEEE Standard C57.13-2016, and/or NEMA 5ESM for revenue billing. Whenever on installation, periodic, or other tests, an electric submeter or transformer is found to exceed these limits, it shall be recalibrated, repaired, or replaced.

(B) Submeter tests prior to installation. No submeter shall be placed in service unless its accuracy has been established. If any submeter is removed from actual service and replaced by another submeter for any purpose whatsoever, it shall be properly tested before being placed in service again.
(11) **Restriction.** Unless otherwise provided, no dwelling unit in an apartment house or mobile home park may be submetered unless all dwelling units are submetered.

(12) **Same type meters required.** All submeters which are served by the same master meter shall be of the same type.