**Electrical Allocation: Overview**

If your community is mastermetered and not easily submetered, Electrical allocation may be essential for the economic survival of your community. Many owners have realized the benefits of saving money for their residents and themselves by passing the cost of mastermetered electrical service through to their tenants via an *electrical allocation* billing program.

**Statutory and regulatory authority.**

The rules governing allocation of costs of non-submetered mastermetered electricity are issued and enforced by the Texas Public Utility Commission under §25.141 of the Public Utility Regulatory Act (see Appendix E).

**Allocation formula.**

Only one formula for electrical allocation has been *pre-approved* by the PUC in its allocation rules. That formula is allocation by square footage. Other formulas can be used only if the owner requests and receives specific PUC staff approval. Formulas that the PUC will likely approve upon written request include those based on the following: actual number of occupants in the respective units; or average for number of occupants in the respective units; or 50 percent actual number of occupants and 50 percent square feet in the unit; or length of time the A/C fan in the unit is operating (the ratio to total time that all fans in all units are operating).

Section 184.012 of the Property Code and Section 25.141(e) of the PUC rules state that the method of allocation may be changed only after 90 days notice to the tenants. This means changing the allocation formula for existing residents requires notice to them 90 days prior to the time of lease renewal.

**Education.**

It is very important that your onsite staff fully understand the method of allocation being used and is prepared to answer resident questions. Misinformation from onsite staff is the number one cause of resident dissatisfaction. If onsite staff is not absolutely sure how the allocation is done, or knowledgeable enough to answer specific resident questions, they should say so and refer the resident to Comptrol at (800) 351-1238. Our well trained staff can easily answer any resident concerns and prevent unnecessary confusion.
Electrical Allocation: Step-by-Step Guide

1. Not necessary to register with PUC.

There are no rules mandating PUC registration by owners who allocate electricity.

2. Keep required records onsite.

Section 25.142(b) of the PUC rules requires that you keep the following records available for residents to inspect at the onsite manager’s office (or for viewing at the resident’s dwelling if there is no on-site office) during normal business hours:

(a) the mastermetered billings from the utility company for the current month and the previous 12 months; and (b) the calculation of the average cost per kilowatt-hour for the current month and the previous 12 months.

3. Use the proper lease addendum.

You need to attach the TAA prepared *Lease Addendum for Allocating Mastermetered Electrical Costs* (see Appendix A-4.5) to your lease for all new and renewal residents. The lease addendum describes how the total mastermetered electric bill will be allocated to the resident, and it includes a statement of the average monthly electrical bill for the unit for the previous calendar year, as required by PUC rules. The addendum has been prepared by TAA legal counsel and is copyrighted by TAA. TAA grants permission to all TAA members to reproduce the addendum by any manner for use by the members.

4. Begin to allocate.

Once a resident has signed the lease and the lease addendum, you can begin allocation billings for that resident’s unit.

5. Calculate the electric bills correctly.

Each resident’s electrical bill must be for his unit’s share of the total mastermeter electric bill, using the formula you designated in the electrical allocation lease addendum. In calculating the average monthly bill for a unit, the PUC rules require you to use the total electrical bill, including electrical charges and any sales taxes on the utility company’s bill. You may not include any fees billed to the owner by the public utility for any deposit, disconnect, reconnect, late payment, or other similar fees. No administrative fees of the owner or his billing company may be included.

6. Send monthly electric bills to residents.

The resident’s monthly electric bill must cover the same billing period as the utility company’s billing period. If issued as part of a multi-item bill, the electrical charges must be separate from the other billing information.

7. Over billing and under billing.

If you miscalculate and over bill the resident for electricity, the PUC rules require that an immediate adjustment and refund be made. If you under bill the resident, you can recover the under billed amounts for the previous 6 months; but recovering monies under billed from more than 6 months ago is very difficult under the rules. You must offer an
installment payment plan to the resident if the underbilling exceeds $25.

8. Exercise remedies for non-payment.

There is no prohibition against cutting off the resident's electricity for non-payment so long as the statutory cut-off procedures are followed. The PUC rules do not prohibit applying rent payments to a resident's unpaid electrical bill in order to get the resident into a rental delinquency situation; however, TAA legal counsel recommends against that practice. You may charge a 5 percent late charge if the allocation bill is not paid on or before the 7th day after the due date; however, the TAA lease addendum contains a 16-day late fee provision in order to be consistent with the TAA lease addenda for allocating water and gas (see Appendix A). You can evict the resident for non-payment of the electric bill.

Bibliography of electrical allocation information.

Regardless of whether you've allocated electricity in the past or you are only planning to do so in the future, there are a number of statutes, rules, articles and forms that you should review. This material includes:

1.) Chapter 25, Section 141 (§25.141) of the Public Utility Regulatory Act (see Appendix E);
2.) Chapter 184 of the Texas Utility Code (see Appendix E);
3.) The TAA Lease Addendum for Allocating Mastermetered Electrical Costs (see Appendix A-4.5).

Conclusion.

Under Texas law, apartment communities are clearly allowed to pass the cost of electricity through to the residents, provided the resident has signed the proper lease addendums and the method of allocation complies with the PUC allocation rules. The TAA has prepared a package of lease addendums (see Appendix A) for this purpose. These addendums are copyrighted and can be purchase through the TAA by calling (512) 479-6252 or by going to www.taa.org.

Additional Questions or Concerns.

If you have any questions, or need additional information, please do not hesitate to contact us at:

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