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EXHIBITS

Table of Contents – Karen M. Radosevich (continued)

I. WITNESS INTRODUCTION AND QUALIFICATIONS

Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.

A. My name is Karen M. Radosevich. I am employed by Entergy Gulf States, Inc. ("EGSI" or "the Company") as a Supervisor - Work Management. My business address is 9425 Pinecroft Drive, The Woodlands, Texas 77380.

Q. FOR WHOM ARE YOU TESTIFYING?

A. I am testifying on behalf of EGSI.

Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I provide a summary of my educational background and professional experience in my Exhibit KMR-1.

Q. PLEASE DESCRIBE YOUR CURRENT JOB RESPONSIBILITIES AS THEY CONCERN ENERGY EFFICIENCY PROGRAMS.

A. I am the lead for developing and implementing EGSI's energy efficiency program in Texas. I have worked extensively on the development of standard offer and market transformation programs. I prepare regulatory filings related to EGSI's energy efficiency program including its Annual Energy Efficiency Report and Energy Efficiency Plan. My work in preparing EGSI's Energy Efficiency Plan includes assessing market

conditions and making decisions to help the programs meet the objective of delivering cost effective energy efficiency services to all customer classes.

I participated in the original rulemaking procedure for P.U.C. SUBST. R. 25.181 and Texas Public Utility Commission ("PUC" or "Commission") Project No. 25610 to revise the Energy Efficiency Rule. I participate in all Energy Efficiency Implementation Project ("EEIP") activities. Prior to mid-2004, the EEIP was managed as PUC Project No. 22241. EEIP activity is now managed as PUC Project No. 27647.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE COMMISSION OR OTHER REGULATORY AGENCIES?

A. No, however, I submitted direct testimony in PUC Docket No. 30123 (EGSI's rate case filed in August 2004) but the case did not go to hearing.

II. PURPOSE AND ORGANIZATION OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. I support a portion of the Transition to Competition ("TTC") costs that EGSI is asking to recover in this docket. Specifically, I sponsor the costs for the Senate Bill 7 ("SB 7") energy efficiency programs from June 1, 1999 through June 17, 2005 ("TTC cost period"). These costs make up the Energy Efficiency Programs class of TTC costs and are summarized in the following Table 1.

Table 1

Group Description	Affiliate Costs			Non-Affiliate Costs	Total Net Requested
	Direct	Allocated	Total		
Internal					
Payroll / Benefits	-	-	-	1,309.13	1,309.13
All Other Internal Support Costs	-	-	-	57.85	57.85
External					
Legal Contractor Costs	-	-	-	-	-
All Other External Support Contractor Costs	-	-	-	6,204,309.04	6,204,309.04
AFUDC & Capital Overhead	-	-	-	-	-
Grand Total	-	-	-	6,205,676.02	6,205,676.02

Q. PLEASE EXPLAIN TABLE 1.

A. In this table, the rows segregate TTC costs between either "internal" or "external" costs. Internal TTC costs are costs incurred and billed by Entergy[1] personnel (including EGSI personnel) to a specific project. The row entitled, "Payroll / Benefits" shows the payroll and benefits costs of the Entergy employees' time spent on the applicable TTC projects. The row entitled, "All Other Internal Support Costs" shows the cost of the system hardware, software, and the like developed by the internal employees for TTC purposes.

[1] I use the term "Entergy" to refer to Entergy Corporation and its direct and indirect subsidiaries. Each of those subsidiaries is a separate legal entity.

The "external" costs rows are segregated between either outside (non-Entergy employee) lawyer/legal fees charges and outside (non-legal) contractors' charges to TTC projects.

The columns are segregated between "affiliate" and "non-affiliate" costs. The *non-affiliate* costs are those TTC costs incurred directly by EGSI on its own behalf. None of the non-affiliate costs have been billed to or allocated to EGSI by one of its affiliates. In contrast, *affiliate costs* are those TTC costs that were incurred by one of EGSI's affiliates (*e.g.*, Entergy Services, Inc.) and then billed to or allocated to EGSI.

All of the costs that I sponsor are non-affiliate costs. None of the costs within the Energy Efficiency Programs class was billed to or allocated to EGSI from an affiliate. Consequently, there are no entries in the "affiliate" columns for my class.

Q. HOW IS THE REMAINDER OF YOUR TESTIMONY ORGANIZED?

A. In Section III, I provide information on the legislative and regulatory background for the energy efficiency programs.

Section IV contains EGSI's request to recover costs associated with the energy efficiency programs implemented to meet the goal for energy efficiency established by SB 7. This section also contains information on the results and effectiveness of the energy efficiency programs.

The last section, Section V, summarizes my recommendation.

Q. WHY ARE YOU QUALIFIED TO ADDRESS THESE ISSUES AND TO PROVIDE THIS TESTIMONY?

A. I have first-hand knowledge of the energy efficiency programs from inception. I am aware of EGSI's expenditures on these programs and with the steps EGSI has taken to meet funding and impact obligations. In addition, as I mentioned earlier, I have participated in various Commission proceedings and implementation activities regarding the topics I discuss in my testimony.

Q. WHAT ARE THE DOLLARS AT ISSUE IN YOUR TESTIMONY?

A. My testimony supports direct expenditures on energy efficiency programs totaling $6.2 million. The vast majority of this $6.2 million (87% or $5.4 million) was for incentive payments to energy efficiency vendors who qualified for payments under the Commission's Energy Efficiency Rule.

Q. ARE ANY OF THESE EXPENDITURES AFFILIATE COSTS?

A. No. They are all EGSI's own expenses. None of these expenses was billed by an affiliate to EGSI.

Q. DO YOU SPONSOR ANY EXHIBITS?

A. Yes, I sponsor the exhibits listed in the Table of Contents to this testimony. In addition to the exhibits listed in my Table of Contents, I also co-sponsor with Company witness Chris E. Barrilleaux the project

summaries that apply to the TTC cost that I sponsor. The project summaries are attached as an exhibit to Mr. Barrilleaux's testimony.

Q. DO YOU SPONSOR ANY PRO FORMA ADJUSTMENTS?

A. Yes. I sponsor three pro forma adjustments, AJ001, AJ008, and AJ014.

The first adjustment, AJ0001, reflects energy efficiency costs incurred during the period April 1, 2005 through June 17, 2005 and adds those costs to the TTC costs that EGSI requests in this docket. The dollar amount of this adjustment is $332,541.15

The second adjustment, AJ008, which I co-sponsor with EGSI witness Phillip R. May, transfers $36,000 of energy efficiency costs from Mr. May's Transition Implementation Management class of TTC costs to my Energy Efficiency Programs class of TTC costs. The $36,000 expenditure is EGSI's share of the costs of an energy efficiency collaborative process with other utilities in Texas. I discuss the collaborative process later in my testimony.

The third adjustment, AJ014, removes the expenditures for the Texas Department of Housing and Community Affairs low-income weatherization program because, as I mention again later in my testimony, EGSI is not requesting those expenditures as part of this docket. The dollar amount of this adjustment is $251,102.50

III. LEGISLATIVE AND REGULATORY BACKGROUND

A. Senate Bill 7

Q. WHAT IS YOUR UNDERSTANDING OF THE PROVISIONS RELATED TO ENERGY EFFICIENCY IN SB 7?

A. In May 1999, the 76th Texas Legislature passed SB 7, which changed the structure of the State's electric utility industry. SB 7 amended the Public Utility Regulatory Act ("PURA") and, among other things, established a structure through which Texas utilities in the transition to retail open access would develop and administer energy efficiency programs. One of the new legislative provisions was PURA § 39.905, which directed affected electric utilities to take three actions to bring state-wide energy efficiency programs to Texas:

1) Develop and administer incentive-based energy efficiency programs in a market-neutral, non-discriminatory manner;
2) Provide program options so that all customer classes have a choice of program offerings that reduce energy consumption and energy costs; and
3) Provide incentives sufficient for energy efficiency service providers ("EESP") to acquire energy savings equivalent to at least 10% of the electric utility's annual growth in demand.

PURA § 39.905 is contained in Exhibit KMR-2.

The 79th Regular Session of the Texas Legislature (which adjourned in May 2005) passed legislation[2] that further modifies PURA § 39.905; however these bills do not affect activities or expenditures during the TTC cost period.

B. Energy Efficiency Rule

Q. WHEN DID THE COMMISSION'S ENERGY EFFICIENCY RULE BECOME EFFECTIVE?

A. The initial version of the Energy Efficiency Rule was approved by the Commission on March 21, 2000. On September 12, 2002, the Commission approved a revised Energy Efficiency Rule and codified various work products that support the energy efficiency programs such as program templates and deemed savings estimates.

Q. WHAT ARE "PROGRAM TEMPLATES" AND "DEEMED SAVINGS"?

A. A program template is a high-level description of an energy efficiency program that may be used to meet the energy efficiency goal established in PURA § 39.905. Deemed savings are stipulated peak demand reductions and annual energy savings associated with a wide variety of energy efficiency improvements.

[2] Senate Bill 712 and companion House Bill 2022.

Q. PLEASE DESCRIBE THE PROCESS THE COMMISSION USED TO DEVELOP THE ENERGY EFFICIENCY RULE.

A. The Commission utilized a consensus process in which stakeholders provided input by participating in a series of workshops and through formal written comment periods. In addition to the utilities, stakeholder groups included:

- customer interest groups such as Public Citizen, Texas Legal Services Center, Texas ROSE and Texas Industrial Energy Consumers;
- entities expected to participate in the Texas electric market as Retail Electric Providers including Shell Energy Services Company, Reliant Energy and Enron;
- national consultants and policy groups such as the Environmental Defense Fund, ICF Consulting, American Council for an Energy Efficient Economy, and the National Association of Energy Service Companies; and
- governmental intervenors such as the Office of Public Utility Counsel and the Office of the Attorney General of Texas.

Overall, the Energy Efficiency Rule was the result of a collaborative process with input from all interested parties.

Q. WHAT IS YOUR UNDERSTANDING OF THE BASIC PROVISIONS OF THE ENERGY EFFICIENCY RULE IN PLACE DURING THE TTC COST PERIOD?

A. P.U.C. SUBST. R. 25.181 prescribes the methods through which electric utilities must procure energy efficiency savings. A copy of the current

Energy Efficiency Rule is provided in Exhibit KMR-3. The basic provisions of this rule are as follows:

- Electric utilities must calculate their goal for energy efficiency based on a rolling, 5-year average of weather-adjusted, peak demand growth. (*See* P.U.C. SUBST. R. 25.181(f)).

- Electric utilities must offer energy efficiency programs for all defined customer classes. These classes include Residential, Hard-to-Reach (households with income at or below 200% of the Federal poverty limit), Small Commercial (non-residential with peak demand less than 100 kW) and Large Commercial and Industrial (non-residential with peak demand greater than 100 kW). (*See* P.U.C. SUBST. R. 25.181(a) and P.U.C. SUBST. R. 25.181(c)(15),(18) and (29)).

- The energy efficiency programs must be either Standard Offer Programs ("SOP") or Market Transformation Programs ("MTP"). In a SOP, utilities pay a standard incentive for a wide range of energy efficiency improvements. In addition, the utility and the program participants enter into a contract with standard terms and conditions. A MTP is targeted at a specific measure, for example air conditioning, and it may include a strategic intervention in a market. Utilities may utilize cash incentives or provide other benefits to participants. (*See* P.U.C. SUBST. R. 25.181(j) and 25.181(k)).

- Each customer class must have access to an equitable share of the incentive funds. (*See* P.U.C. SUBST. R. 25.181(j)(2)(A)).

- Incentive payments must be based on avoided capacity costs of $78.50 per kW and avoided energy costs of $0.0268 per kWh. Incentive payments are not to exceed defined caps for each customer class. (*See* P.U.C. SUBST. R. 25.181(e) and P.U.C. SUBST. R. 25.181 (h)(2)(F)).

- Expenditures for administrative activities are limited to 10% of the energy efficiency budget. (*See* P.U.C. SUBST. R. 25.181 (i)).

C. Settlements Affecting Energy Efficiency Expenditures

Q. WERE EXPENDITURES FOR ENERGY EFFICIENCY CONSIDERED IN EGSI'S UNBUNDLED COST OF SERVICE ("UCOS") CASE?

A. Yes. In PUC Docket No. 22356, EGSI's UCOS case, EGSI and the other parties reached an agreement to include $1.9 million for energy efficiency programs in EGSI's transmission and distribution rates, to determine that the goal for energy efficiency was met when the $1.9 million was spent on approved energy efficiency programs, and to set aside $309,000 in 2002 for a comprehensive program for low-income customers. An additional agreement between EGSI and the low-income advocate, Texas Legal Service Center, stipulated that EGSI would fund this program at $900,000 for 2003 and 2004.

Q. WAS EGSI'S ENERGY EFFICIENCY PROGRAM CONSIDERED IN ANY OTHER REGULATORY PROCEEDING DURING THE TTC COST PERIOD?

A. Yes. The energy efficiency programs were also considered in PUC Docket No. 24469, EGSI's market readiness docket. In that docket, parties agreed that energy efficiency programs should move forward with the funding agreements in PUC Docket No. 22356. However, it was agreed that EGSI would be excused from the January 1, 2003 goal but not from future goals. EGSI also agreed to fund a low-income weatherization

program administered by the Texas Department of Housing and Community Affairs ("TDHCA") until retail open access commences.[3]

Q. WHEN DID THE COMMISSION ESTABLISH EGSI'S CURRENT BASE RATES?

A. EGSI's last implemented base rate case was Docket No. 20150.[4] (As I mentioned earlier, the Commission approved the initial version of the Energy Efficiency Rule in March 2000.) In Docket No. 20150, EGSI requested an adjustment to add funding for a low-income weatherization program administered by TDHCA. *See* Exhibit KMR-4. As I also mentioned earlier, EGSI is not requesting expenditures on the TDHCA low-income weatherization program as TTC costs in this docket. Thus, the energy efficiency requirements and the associated costs that I discuss in my testimony arose after the Commission established EGSI's current base rates in Docket No. 20150.

IV. ENERGY EFFICIENCY PROGRAM EXPENDITURES AND RESULTS

A. Energy Efficiency Program Expenditures

Q. PLEASE GIVE AN OVERVIEW OF EGSI'S EXPENDITURES ON SB 7 ENERGY EFFICIENCY PROGRAMS DURING THE TTC COST PERIOD.

[3] Staff's Petition to Determine Readiness For Retail Competition in the Portions of Texas Within the Southeastern Reliability Council, Docket No. 24469, Order at 22-23 (FoF 16-20) (Dec. 20, 2001).

[4] Application of Entergy Gulf States, Inc. for Authority to Change Rates, Docket No. 20150, Order (June 30, 1999).

A. SB 7 became effective on September 1, 1999. The first costs related to complying with SB 7 energy efficiency requirements were incurred in November 1999. Program development continued through 2000 and 2001. EGSI began implementing programs to achieve mandated energy efficiency peak demand reductions on January 1, 2002. EGSI has completed program years 2002, 2003, 2004 and, as of the end of the TTC cost period (June 17, 2005), was in the midst of program year 2005.

Q. WHAT WERE EGSI'S YEAR-BY-YEAR EXPENDITURES ON SB 7 ENERGY EFFICIENCY PROGRAMS DURING THE TTC COST PERIOD?

A. EGSI's expenditures on the energy efficiency program during the TTC cost period are presented below. From the date that EGSI first incurred energy efficiency program costs in November 1999 through June 17, 2005, EGSI spent $6.2 million.

1

Program Development		
Year	**Amount**	**Description**
1999 (from Nov.)	$16,000	Began participation in regulatory process to make energy efficiency rule. Began designing program templates, creating financial modeling tools, and developing an energy efficiency plan.
2000	$153,029	Continued work on energy efficiency rule, program templates and deemed savings. Filed first energy efficiency plan. Began work on web-based databases to manage application process, energy efficiency improvements, invoicing, and measurement and verification activities.
2001	$483,259	Completed work on deemed savings. Developed program manuals for SOPs and conducted local and state-wide outreach events. Conducted baseline studies for two market transformation programs.
Subtotal	**$652,288**	
Program Implementation		
Year	**Amount**	**Description**
2002	$1,012,535	Implemented four energy efficiency programs to achieve peak demand reductions of 1.2 MW and 4,460 MWh. Conducted a participant satisfaction survey.
2003	$2,267,414	Implemented four energy efficiency programs to achieve peak demand reductions of 5.1 MW and 16,991 MWh.
2004	$1,914,570	Implemented six energy efficiency programs to achieve peak demand reductions of 5.2 MW and 12,238 MWh.
2005 (to June 17)	$358,869	Current program year. Implementing a portfolio of six energy efficiency programs. Peak demand reductions as of June 17, 2005 are 1.6 MW.
Subtotal	**$5,553,388**	
TOTAL	**$6,205,676**	

2

Q. IN ADDITION TO THIS TABLE, DO YOU ALSO HAVE EXHIBITS THAT SHOW THE DETAILS OF THE EXPENDITURES FOR YOUR CLASS OF TTC COSTS?

A. Yes. I have included four exhibits that show the costs in the Energy Efficiency Programs class in different ways: Exhibits KMR-A, KMR-B, KMR-C, and KMR-D.

Exhibit KMR-A is, in essence, the same as the Table 1 previously presented. It shows the components of my Energy Efficiency Programs class by different internal and external categories of costs.

Exhibit KMR-B shows cost information for my class based upon the project codes and associated billing methods that were used to compile this class.

Exhibit KMR-C shows the cost information for my class by year from 1999 through 2005.

Exhibit KMR-D shows the cost information for my class segregated as either a capital cost or an expense cost.

Q. WERE THE ENERGY EFFICIENCY DEVELOPMENT AND IMPLEMENTATION COSTS NECESSARY?

A. Yes. EGSI was required to spend money on these program development and implementation costs in order to comply with the mandates of SB 7 and the Commission's Energy Efficiency Rule.

Q. WHAT DID EGSI DO TO KEEP DEVELOPMENT COSTS REASONABLE?

A. EGSI took a number of steps to ensure that expenditures to develop the energy efficiency program were reasonable. First and foremost, was the collaboration among six Texas utilities to develop energy efficiency programs to meet the requirements of SB 7 and the Energy Efficiency Rule. This joint effort was beneficial because of the need to expedite the planning process, but it also served to minimize development costs. Rather than bearing the costs for developing each resource alone, EGSI (and its customers) benefited by being able to spread the costs among a number of utilities. As an example of this, EGSI shared the costs of developing the Residential and Small Commercial Standard Offer Programs ("SOP"), the Hard-to-Reach SOP, and the Commercial and Industrial SOP equally with all utilities. EGSI split the costs for developing the Energy Star Homes Market Transformation Programs ("MTP") and the AC Distributor MTP with the utilities interested in administering these programs.

Second, EGSI used a competitive bidding process for items that would be utilized only by EGSI, for example, required baseline studies for MTPs.

Finally, EGSI and CenterPoint Energy collaborated on a study to determine the best path for using information technology ("IT") to administer the energy efficiency programs. This study resulted in EGSI's

decision to invest in IT infrastructure enhancements including web-based program resources and web-based database and tracking tools. These tools greatly contributed to EGSI's ability to manage a large portfolio of energy efficiency programs with a modest (less than 10%) administrative budget.

By sharing development costs with other utilities, seeking competitive bids, and making early, informed decisions about IT enhancements, EGSI was able to keep actual program development costs considerably lower than the budgeted amount. Over the two and a half year development period, EGSI's actual development expenditures totaled $652,288. In comparison, EGSI budgeted $1.25 million for this purpose.

Q. WHAT EVIDENCE DO YOU HAVE THAT EGSI'S IMPLEMENTATION EXPENDITURES ON THE ENERGY EFFICIENCY PROGRAM WERE REASONABLE?

A. EGSI adhered to the cost effectiveness standards contained in the Energy Efficiency Rule for paying incentives. EGSI used Commission-approved avoided cost calculations and EGSI offered incentives at or below the prescribed incentive cap (in other words, EGSI spent less on incentives than the maximum amount allowed under the Commission's rule). The following table shows, for each customer class, the prescribed incentive cap and the cap used by EGSI throughout the TTC cost period. In effect, EGSI achieved energy efficiency savings at a cost-effectiveness level that

improved on the level prescribed in the energy efficiency rule. (*See* P.U.C. SUBST. R. 25.181(h)(2)(F) in Exhibit KMR-3).

Customer Class	Prescribed Incentive Cap	EGSI's Incentive Cap			
		2002	2003	2004	2005
Hard-to-Reach	100%	100%	86%	83.5%	74%
Residential	50%	50%	38%	37%	35%
Small Commercial	50%	50%	38%	37%	35%
Large Commercial and Industrial	35%	35%	27.75%	27%	27%
Load Management	15%			15%	15%

Another indicator of EGSI's effort to keep costs reasonable is the Company's ability to manage programs within a modest administrative budget. The Energy Efficiency Rule allows utilities to use up to 10% of their total program cost for administrative purposes. (*See* P.U.C. SUBST. R. 25.181(i) in Exhibit KMR-3). EGSI exceeded this target for its first year of offering programs due to development costs to organize the programs, computer software, and the like. Since that first year, however, EGSI has met this target consistently with stabilized costs for outreach plans, inspection procedures, and IT maintenance, as opposed to development, costs.[5]

[5] This table includes: (1) costs for EGSI labor, which EGSI is not requesting in this docket; and (2) costs for the low-income weatherization program administered by the TDHCA, which EGSI also is not requesting in this docket. In addition, this table does not show costs for the 2005 program year because, at the time this testimony was filed, the 2005 program year was not yet complete. Consequently, the dollars on this table differ from the $6.2 million that EGSI requests in this docket for energy efficiency programs.

Program Year	Incentives	Administrative	% of Total Costs used for Administration
2002	$1,819,036	$383,544	17.4%
2003	$3,131,007	$333,534	9.6%
2004	$2,915,501	$318,678	9.9%

See "Section VI - Program Funding" in each year's Energy Efficiency Report Exhibit KMR-5, Exhibit KMR-6, and Exhibit KMR-7.

Q. WHAT DID EGSI RECEIVE IN RETURN FOR DEVELOPMENT COST EXPENDITURES IN 1999, 2000, AND 2001?

A. In late 1999, the electric utilities subject to SB 7 formed a working group to leverage energy efficiency program knowledge. One of the utility working group's first decisions was to hire Schiller Associates to assist in this effort. Schiller Associates (which has since been acquired by Nexant, Inc.) is a national consulting firm with experience in developing energy efficiency programs in restructured and restructuring electric markets.

Schiller Associates provided EGSI and other Texas electric utilities with the following assistance:

- a general budgeting template that used input parameters and assumptions to calculate the financial resources needed to achieve the energy efficiency goal (I have provided an example of Schiller's budgeting template in my Exhibit KMR-5);

- first draft program templates that included a program description, objectives, eligibility requirements, measurement and verification standards, and outreach requirements (I have provided an example of Schiller's draft program templates in my Exhibit KMR-6). In late 2003, the finalized templates were codified through a rule making process as P.U.C. SUBST. R. 25.184 fig (c)(1) to (12);

- an outline for the energy efficiency plan to be filed with the Commission (I have provided Schiller's draft plan outline in my Exhibit KMR-7);

- a fully developed program manual for the Commercial and Industrial Standard Offer Program including simplified measurement and verification protocols for typical measures such as chiller replacements, lighting retro-fits, and motor efficiency improvements (I have provided an excerpt from this manual in my Exhibit KMR-8); and

- a table of lighting technologies (fixture types, lamp characteristics, ballast types, etc.) to be used as deemed or specified demand and energy savings (I have provided the first 5 pages of this table in my Exhibit KMR-9). The commercial lighting table was codified through a rule making process as P.U.C. SUBST. R. 25.184 fig (d)(3).

EGSI also utilized the consulting services of Frontier Associates, an Austin-based firm with considerable experience in energy efficiency program design and knowledge of Commission processes and procedures. Frontier Associates provided EGSI and the other Texas utilities with the following:

- fully developed program manuals for the Residential and Small Commercial Standard Offer Program ("SOP") and the Hard-to-Reach SOP (I have provided an excerpt from the Residential and Small Commercial manual in my Exhibit KMR-10 and an excerpt from the Hard-to-Reach manual in my Exhibit KMR-11);

- web-based databases to manage the application process, reporting process, and inspection process for the Residential and Small Commercial SOP, the Hard-to-Reach SOP, the Commercial and Industrial SOP, and the AC Distributor Market Transformation Program; and

- deemed or stipulated demand and energy savings for a wide variety of energy efficiency measures. Frontier Associates' work included developing the deemed savings, coordinating third-party reviews, and overseeing the Commission's review and approval process (I have provided an excerpt of deemed savings in my

Exhibit KMR-12). Deemed savings for residential and small commercial sites was codified through a rule making process as P.U.C. SUBST. R. 25.184 fig (d)(1).

Finally, EGSI worked with ICF Consulting to complete baseline studies for the Energy Star Homes Market Transformation Program ("MTP") and the A/C Distributor MTP. (As an example of ICF Consulting's work, I have provided an excerpt from the A/C Distributor baseline study in my Exhibit KMR-13.) ICF Consulting is a national consulting company with offices in Texas. It is one of the United States Environmental Protection Agency's ("EPA") consultants on the Energy Star program. As mentioned earlier, ICF Consulting also provided EGSI and other Texas utilities with an IT scoping study to help the utilities make choices among different database and tracking system possibilities. (An excerpt from ICF Consulting's report is provided in my Exhibit KMR-14.)

Q. WHAT WAS ACHIEVED BY THE ENERGY EFFICIENCY PROGRAM IMPLEMENTATION COSTS INCURRED IN 2002?

A. EGSI began implementing energy efficiency programs on January 1, 2002. As agreed in PUC Docket No. 24469, EGSI's market readiness docket, the Company prepared an Energy Efficiency Plan for 2002 that adhered to the agreed $1.9 million budget with a $309,000 set-aside for the Hard-to-Reach customer class and funding for the Low-Income Weatherization Program administered by TDHCA.

In 2002, EGSI successfully launched three SOPs and one MTP that resulted in 1.18 MW of peak demand savings and 4,459.6 MWh annual energy savings. [6]

	2002 Reported Savings	
	kW	kWh
Programs in Transition to Competition Costs		
Residential and Small Commercial SOP	408.7	1,696,138
Hard-to-Reach SOP	214.6	915,036
Commercial and Industrial SOP	372.0	1,411,553
Energy Star Homes MTP	184.8	436,898
	1,180.1	4,459,625
Other Energy Efficiency Programs		
TDHCA Weatherization Program	124.0	420,235
Total All Programs Reported in 2002	1,304.1	4,879,860

On April 1, 2003, EGSI filed an Annual Energy Efficiency Report in PUC Project No. 27541 outlining its achievements in 2002. This report is provided as Exhibit KMR-15.

Q. WHAT WAS ACHIEVED BY THE ENERGY EFFICIENCY PROGRAM IMPLEMENTATION COSTS INCURRED IN 2003?

A. EGSI managed three Standard Offer Programs ("SOP") and one Market Transformation Program ("MTP"). The Company also managed a small

[6] The 1.18 MW peak demand reduction and 4,459.6 MWh annual energy savings were achieved by MTP and SOP whose costs are included in this TTC case. The expenditures for the TDHCA low-income weatherization program are not requested in the TTC case, but its demand and energy impacts are included in the above table to facilitate comparison with data in the filed Annual Report.

pilot program targeted at high efficiency cooling equipment and a small pilot to investigate the fit between the existing program for low-income customers and Energy Efficiency Service Providers interested in providing duct sealing to mobile home residents. These four programs and two small pilots achieved 5.09 MW of peak demand savings and annual energy savings of 16,990.6 MWh.

	2003 Reported Savings	
	kW	kWh
Programs in Transition to Competition Costs		
Residential and Small Commercial SOP	1,086.6	3,566,601
High efficiency cooling pilot	379.0	705,821
Hard-to-Reach SOP	702.7	2,516,836
Mobile home duct pilot	16.4	59,252
Commercial and Industrial SOP	1,439.0	8,523,422
Energy Star Homes MTP	1,467.2	1,618,653
	5,090.9	16,990,585
Other Energy Efficiency Programs		
TDHCA Weatherization Program	101.2	348,963
Total All Programs Reported in 2003	5,192.1	17,339,548

EGSI filed its Annual Energy Efficiency Report for 2003 on April 1, 2004 in PUC Project No. 29440. This document is presented in Exhibit KMR-16.

Q. WHAT WAS ACHIEVED BY ENERGY EFFICIENCY PROGRAM IMPLEMENTATION COSTS INCURRED IN 2004?

A. In 2004, EGSI administered an expanded portfolio of four SOPs and two MTPs that achieved 5.2 MW of peak demand reduction and 12,237.8 MWh annual energy savings.

	2004 Reported Savings	
	kW	kWh
Programs in Transition to Competition Costs		
Residential and Small Commercial SOP	879.2	2,825,486
Hard-to-Reach SOP	730.6	2,476,164
Commercial and Industrial SOP	876.9	3,454,688
Load Management SOP	0.0	0
Energy Star Homes MTP	2,261.9	2,602,057
AC Distributor MTP	448.4	879,441
	5,197.0	12,237,836
Other Energy Efficiency Programs		
TDHCA Weatherization Program	167.3	351,228
Total all Programs Reported in 2004	5,364.3	12,589,064

EGSI filed its Annual Energy Efficiency Report for 2004 on April 1, 2005 in PUC Project No. 30739. This report is contained in Exhibit KMR-17.

Q. WHAT WAS ACHIEVED BY ENERGY EFFICIENCY PROGRAM IMPLEMENTATION COSTS INCURRED IN 2005 THROUGH JUNE 17?

A. For 2005, EGSI continues its portfolio of four SOPs and two MTPs. As of June 17, 2005, EGSI has achieved 1.6 MW of peak demand reduction. If EGSI receives a positive market reaction to the Load Management SOP, EGSI expects to end 2005 very near its 10% demand reduction goal.

Q. DID EGSI USE A COMPETITIVE BIDDING PROCESS TO SELECT PROGRAM PARTICIPANTS?

A. No. the Energy Efficiency Rule precludes the use of competitive bids for participation. Utilities are required to administer programs in a market-neutral and non-discriminatory manner. EGSI has implemented this policy by accepting applications on a first come, first served basis. EGSI publicizes the day and time it will begin accepting applications and then reviews each application, in order of arrival, until all funding is allocated to qualified participants. Each participant in a program completes the same application, executes a contract with standard terms and conditions, and receives the same incentive for each kW and kWh delivered to the Company. Incentives are based on the avoided cost prescribed in the Energy Efficiency Rule (*See* P.U.C. SUBST. R. 25.181(e)(2) in my Exhibit KMR-3) and the incentive cap set by the utility subject to ceilings also prescribed in the Energy Efficiency Rule (*See* P.U.C SUBST. R. 25.181(h)(2)(F) in my Exhibit KMR-3).

B. Energy Efficiency Program Results and Effectiveness

Q. DOES EGSI OFFER PROGRAMS SO THAT ALL CUSTOMER CLASSES HAVE AN OPPORTUNITY TO PARTICIPATE?

A. Yes. For each program year, EGSI has managed a portfolio of programs that allow participation by each customer class. This includes options for the residential, low-income, small commercial, commercial, and industrial

customer classes. Since the programs started in 2002, EGSI's portfolio of programs has increased from four to six different programs. EGSI continually evaluates new program ideas as they are developed and approved by the Commission for utility use.

Q. WHAT WERE THE RESULTS OF EGSI'S ENERGY EFFICIENCY PROGRAM IN 2002, 2003 and 2004?

A. EGSI's energy efficiency programs have grown and overall, the programs have shown progress since their inception. The following table summarizes the results from each completed program year.

	2002	2003	2004
Peak demand reduction (MW)	1.301	5.192	5.364
Annual energy savings (MWh)	4,880	17,339	12,589
EESP participants	33	98	117
Customer sites participating	2,923	6,009	5,107
Goal (MW)	No goal for program year 2002	10.77	8.97
Percent of Goal Achieved		48%	60%

Q. DO YOU HAVE ANY EVIDENCE CONCERNING THE QUALITY OR EFFECTIVENESS OF EGSI'S PROGRAMS?

A. Yes. In 2003, EGSI completed a direct mail survey to residential program participants. The purpose of the research was to determine customer satisfaction with the measures that were installed in their homes, to assess customer perception of the impact of these improvements, and to determine a baseline for measuring contractor performance. Survey

respondents gave Energy Efficiency Service Providers high marks for the overall quality of their workmanship and materials with 75% rating it as excellent or good. Less than 6% rated the overall quality as poor. In addition, almost 80% said the work improved their homes' energy efficiency and 70% said the work reduced their electric bills and improved their homes' comfort. The executive summary from the survey report is contained in Exhibit KMR-18.

This study is a standard type of analysis that a utility energy efficiency administrator relies upon to assess the efficacy of various programs and activities.

A second indicator of program quality is the national recognition the Company received for its Energy Star Homes Market Transformation Program from the EPA in 2005. EGSI received an Energy Star Award for demonstrated program growth. In 2002, EGSI reported 154 qualifying homes. In 2003, the number of qualifying homes increased to 689 and, in 2004, 860 Energy Star homes were constructed in EGSI's Texas service area.

Q. PLEASE DESCRIBE THE STEPS THAT EGSI TAKES TO ENSURE THAT DEMAND AND ENERGY SAVINGS OCCUR.

A. EGSI has established review procedures for each program to ensure that incentives are paid only for energy efficiency improvements that have

been installed and are capable of impacting EGSI's summertime, daytime demand peak.

For the Residential and Small Commercial Standard Offer Program ("SOP") and the Hard-to-Reach SOP, EGSI verifies that the energy efficiency improvements are installed in a home or small business within its Texas service area, that each site is not duplicated in any other program or in any other program year, and that required paperwork with the customer's signature is complete. In addition, EGSI conducts random, on-site inspections for a statistically significant number of sites. (My Exhibit KMR-19 is an example of the various inspection reports I mention in this answer.) Under the Energy Efficiency Rule, the use of a Commission-approved deemed savings estimate is sufficient for measurement and verification of peak demand reduction and annual energy savings. (*See* P.U.C. SUBST. R. 25.181(l)(2) in Exhibit KMR-3.)

For the AC Distributor Market Transformation Program ("MTP"), every site is verified to be within EGSI's Texas service area, to not be duplicated in any other program or program year, and to ensure that the installed equipment is matched to a system with a qualified efficiency rating established by a third party. Typically, the web database maintained by the American Refrigeration Institute is used. EGSI conducts random, on-site inspections to verify the condenser brand, model number, and serial number for a small number of sites.

For the Energy Star Homes MTP, every home is service-territory verified, duplication is checked across all programs and all years, EPA Energy Star Certification is verified, and a statistically significant number of homes are visited so that the determinants for the Home Energy Rating Score can be verified.

For the Commercial and Industrial SOP, EGSI conducts two field inspections for every project. The initial inspection is used to establish baselines for the existing condition of the facility and the final inspection is used to determine the improved condition. While Energy Efficiency Service Providers ("EESP") are responsible for developing and executing a plan to measure and verify savings, EGSI reviews each plan for adherence to the principles of the International Performance Measurement and Verification Protocol ("IPMVP"). The IPMVP is an industry accepted protocol for measurement and verification activities. To ensure adherence to the IPMVP, EGSI has engaged Nexant, Inc. to provide technical assistance in reviewing EESP-provided measurement and verification plans. Nexant was selected to provide this assistance because of its familiarity with the program (Nexant, previously Schiller Associates, developed the Commercial & Industrial SOP program manual) and past work.

Q. ARE THE ENERGY EFFICIENCY PROGRAMS SUBJECT TO REVIEW BY AN INDEPENDENT AUDITOR?

A. Yes. The independent audit is addressed in P.U.C. SUBST. R. 25.181(m) (*See* Exhibit KMR-3). At this time, EGSI expects that the third-party review will commence in late 2005 or early 2006 and will cover the work from the 2003 and 2004 program years.

Q. DOES THE ENERGY EFFICIENCY RULE INCLUDE REWARDS OR PENALTIES TO MEET /NOT MEET THE 10% GOAL?

A. No. At one time during the drafting of the original energy efficiency rule, penalty language for not reaching the 10% goal was proposed, but after discussion and comments, it was removed. Consensus was that this would be unnecessarily punitive and would place utilities in the impossible position of being a 100% guarantor of contracts awarded on a first come, first served basis. Overall, EESPs are responsible for promised savings under the contract and the utility is responsible for proper administration of the contract.

Q. DO YOU HAVE ANY EVIDENCE THAT EGSI CUSTOMERS SUPPORT ENERGY EFFICIENCY PROGRAMS?

A. Yes. In 1998, EGSI conducted a Deliberative Poll, which is EGSI's definitive study for customer input on a variety of issues. (A copy of EGSI's Deliberative Poll results is provided as Exhibit KMR-20. This study is another standard type of analysis that a utility energy efficiency administrator relies upon to assess the efficacy of various programs and

activities.) As summarized below, this study established that there is strong customer support for energy efficiency programs in general, and for programs for low-income customers in particular.

- On a scale from 0 to 10 where 10 stands for extremely important, customers give a rating of 8.4 to the belief that EGSI should offer low-income customers as many opportunities to take advantage of energy efficiency programs as all other customers (*See* question 11).

- More than four out of five (83%) participants believe that EGSI should offer more energy efficiency programs (*See* question 20).

- Almost three out of four (72%) participants thought that the Company should offer more low-income energy efficiency programs (*See* question 22).

V. CONCLUSION

Q. PLEASE SUMMARIZE EGSI'S REQUEST FOR THE RECOVERY OF EXPENDITURES ON ENERGY EFFICIENCY PROGRAMS AS PART OF THE TRANSITION TO COMPETITION COSTS.

A. EGSI requests to recover $6.2 million for direct TTC expenditures on energy efficiency programs developed and implemented to comply with PURA § 39.905 and the Commission's Energy Efficiency Rule during the TTC cost period, June 1, 1999 to June 17, 2005. Eighty-seven percent ($5.4 million) of this $6.2 million was for incentive payments to energy efficiency vendors who qualified for payments under the Commission's Energy Efficiency Rule.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes, at this time.

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Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I earned a Bachelor of Science in Economics from the University of Wyoming in 1986 and a Master of Arts in Economics from the University of Arizona in 1989.

I began my utility industry career of fourteen years in 1991 when I joined Gulf States Utilities Company, as a Market Research Analyst. I have been employed with that company and its successor, EGSI, since that time. I have worked in numerous areas of customer service, including marketing, economic development, large industrial account management and, presently, customer relations.

In 1998, I worked in an unregulated subsidiary of Entergy Corporation called Entergy Business Solutions. This organization provided energy management services, including energy efficiency, to commercial, government, and industrial accounts in the southeastern United States.

In 1999, I received the designation as a Certified Energy Manager ("CEM") by the Association of Energy Engineers. The CEM designation is awarded to individuals who have completed a qualifications review process, achieved a passing score on a comprehensive written examination, and meet continuing education requirements. The CEM is the industry standard for recognizing a high level of competency in energy management, including energy efficiency.

Finally, I am the immediate past president of the Electric Utility Marketing Managers of Texas ("EUMMOT"). EUMMOT is an association of electric utilities that are working to achieve the goal for energy efficiency established by Senate Bill 7 from the 76th regular legislative session in 1999. The EUMMOT members are TXU Electric Delivery, CenterPoint Energy, American Electric Power, Texas-New Mexico Power, Xcel Energy, and EGSI.

Sec. 39.905. GOAL FOR ENERGY EFFICIENCY. (a) It is the goal of the legislature that:

(1) electric utilities will administer energy savings incentive programs in a market-neutral, nondiscriminatory manner but will not offer underlying competitive services;

(2) all customers, in all customer classes, have a choice of and access to energy efficiency alternatives and other choices from the market that allow each customer to reduce energy consumption and reduce energy costs; and

(3) each electric utility will provide, through market-based standard offer programs or limited, targeted, market-transformation programs, incentives sufficient for retail electric providers and competitive energy service providers to acquire additional cost-effective energy efficiency equivalent to at least 10 percent of the electric utility's annual growth in demand.

(b) The commission shall provide oversight and adopt rules and procedures, as necessary, to ensure that the goal of this section is achieved by January 1, 2004.

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§25.181. Energy Efficiency Goal.

(a) **Purpose.** The purposes of this section are to ensure that:
(1) electric utilities administer energy savings incentive programs in a market-neutral, non-discriminatory manner, and do not provide competitive energy efficiency services, except as permitted in §25.343 of this title (relating to Competitive Energy Services);
(2) all customers, in all customer classes, have a choice of and access to energy efficiency alternatives that allow each customer to reduce energy consumption and energy costs; and
(3) each electric utility provides, through market-based standard offer programs, or limited, targeted market-transformation programs, or both, incentives sufficient for retail electric providers and competitive energy efficiency service providers to acquire additional cost-effective energy efficiency savings equivalent to at least 10% of the electric utility's annual growth in demand by January 1, 2004, and each year thereafter, as mandated by the Public Utility Regulatory Act (PURA) §39.905.

(b) **Application.** This section applies to electric utilities, as that term is defined in §25.5 of this title (relating to Definitions). This section shall not apply to an electric utility subject to PURA §39.102(c) until the expiration of the utility's rate freeze period.

(c) **Definitions.** The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:
(1) Affiliate —
(A) a person who directly or indirectly owns or holds at least 5.0% of the voting securities of an energy efficiency service provider;
(B) a person in a chain of successive ownership of at least 5.0% of the voting securities of an energy efficiency service provider;
(C) a corporation that has at least 5.0% of its voting securities owned or controlled, directly or indirectly, by an energy efficiency service provider;
(D) a corporation that has at least 5.0% of its voting securities owned or controlled, directly or indirectly, by:
(i) a person who directly or indirectly owns or controls at least 5.0% of the voting securities of an energy efficiency service provider; or
(ii) a person in a chain of successive ownership of at least 5.0% of the voting securities of an energy efficiency service provider; or
(E) a person who is an officer or director of an energy efficiency service provider or of a corporation in a chain of successive ownership of at least 5.0% of the voting securities of an energy efficiency service provider;
(F) a person who actually exercises substantial influence or control over the policies and actions of an energy efficiency service provider;
(G) a person over which the energy efficiency service provider exercises the control described in subparagraph (F) of this paragraph;
(H) a person who exercises common control over an energy efficiency service provider, where "exercising common control over an energy efficiency service provider" means having the power, either directly or indirectly, to direct or cause the direction of the management or policies of an energy efficiency service provider, without regard to whether that power is established through ownership or voting of securities or any other direct or indirect means; or
(I) a person who, together with one or more persons with whom the person is related by ownership, marriage or blood relationship, or by action in concert, actually exercises substantial influence over the policies and actions of an energy efficiency service provider even though neither person may qualify as an affiliate individually.

§25.181(c) continued

(2) **Calendar year** — January 1 through December 31.
(3) **Competitive energy efficiency services** — Energy efficiency services that are defined as competitive under §25.341 of this title (relating to Definitions).
(4) **Deemed savings** — A pre-determined, validated estimate of energy and peak demand savings attributable to an energy efficiency measure in a particular type of application that a utility may use instead of energy and peak demand savings determined through measurement and verification activities.
(5) **Demand** — The rate at which electric energy is delivered to or by a system at a given instant, or averaged over a designated period, usually expressed in kilowatts (kW) or megawatts (MW).
(6) **Demand savings** — A quantifiable reduction in the rate at which energy is delivered to or by a system at a given instance, or average over a designated period, usually expressed in kilowatts (kW) or megawatts (MW).
(7) **Demand side management (DSM)** — Activities that affect the magnitude or timing of customer electrical usage, or both.
(8) **Energy efficiency** — Programs that are aimed at reducing the rate at which electric energy is used by equipment and/or processes. Reduction in the rate of energy used may be obtained by substituting technically more advanced equipment to produce the same level of end-use services with less electricity; adoption of technologies and processes that reduce heat or other energy losses; or reorganization of processes to make use of waste heat. Efficient use of energy by customer-owned end-use devices implies that existing comfort levels, convenience, and productivity are maintained or improved at a lower customer cost.
(9) **Energy efficiency measures** — Equipment, materials, and practices that when installed and used at a customer site result in a measurable and verifiable reduction in either purchased electric energy consumption, measured in kilowatt-hours (kWh), or peak demand, measured in kWs, or both.
(10) **Energy efficiency project** — An energy efficiency measure or combination of measures installed under a standard offer contract or a market transformation contract that results in both a reduction in customers' electric energy consumption and peak demand, and energy costs.
(11) **Energy efficiency service provider (EESP)** — A person who installs energy efficiency measures or performs other energy efficiency services. An energy efficiency service provider may be a retail electric provider or large commercial customer, if the person has executed a standard offer contract.
(12) **Energy savings** — A quantifiable reduction in a customer's consumption of energy.
(13) **Existing contracts** — Energy efficiency contracts in effect prior to September 1, 1999, that expire on or after September 1, 1999.
(14) **Growth in demand** — The annual increase in load, measured on the transmission system, in the Texas portion of an electric utility's service area at time of peak demand, as measured according to subsection (f) of this section.
(15) **Hard-to-reach customers** — Customers with an annual household income at or below 200% of the federal poverty guidelines.
(16) **Incentive payment** — Funding that reduces the cost of installing energy efficiency measures, or provides a service or benefit that would otherwise not be available to the end-use customer for installing energy efficiency measures.
(17) **Inspection** — Onsite examination of a project to verify that a measure has been installed and is capable of performing its intended function.
(18) **Large commercial customers** — Retail commercial or industrial customers with a demand that exceeds 100 kW. For the purpose of this subsection, a customer's load within a service territory that is under common ownership shall be combined.

§25.181(c) continued

(19) **Load control** — Activities that place the operation of electricity-consuming equipment located at an electric user's site under the control or dispatch of an energy efficiency service provider, an independent system operator, or other transmission organization.

(20) **Load factor** — The ratio of average load to peak load during a specific period of time, expressed as a percent. The load factor indicates to what degree energy has been consumed compared to maximum demand or utilization of units relative to total system capability.

(21) **Load management** — Load control activities that result in a reduction in peak demand on an electric utility system or a shifting of energy usage from a peak to an off-peak period.

(22) **Market transformation program** — Strategic efforts to induce lasting structural or behavioral changes in the market that result in increased adoption of energy efficient technologies, services, and practices, as more fully described in subsection (k) of this section.

(23) **Measurement and verification (M&V)** — Activities intended to determine the actual kWh and kW savings resulting from energy efficiency projects as more fully described in subsections (l) and (m) of this section.

(24) **Off-peak period** — Period during which the load on an electric utility system is not at or near its maximum volume. For the purpose of this section, the off-peak period will be all hours from October 1 through April 30.

(25) **Peak demand** — Electrical demand at the time of highest annual demand on the utility's system, measured in 15 minute intervals.

(26) **Peak demand reduction** — Peak demand reduction on the utility system during the utility system's peak period, calculated as the maximum average demand reduction over a period of one hour during the peak period.

(27) **Peak period** — Period during which a utility's system experiences its maximum demand. For the purposes of this section, the peak period is from May 1 through September 30, during the hours between 1:00 p.m. and 7:00 p.m., excluding federal holidays and weekends.

(28) **Renewable demand side management (DSM) technologies** — Equipment that uses a renewable energy resource (renewable resource), as defined in §25.173(c) of this title (relating to Goal for Renewable Energy) that, when installed at a customer site, reduces the customer's net purchases of energy (kWh), electrical demand (kW), or both.

(29) **Small commercial customers** — Retail commercial customers with a maximum demand that does not exceed 100 kW.

(30) **Standard offer contract** — A contract between an energy efficiency service provider and a participating utility specifying the standard payment based upon the amount of energy and peak demand savings achieved through the installation of energy efficiency measures at electric customer sites, the measurement and verification protocols, and other terms and conditions, according to the program requirements.

(31) **Standard offer program** — A program under which a utility administers standard offer contracts between the utility and energy efficiency service providers. For the purposes of this section, the targeted weatherization programs under PURA §39.903 (relating to the System Benefit Fund) to be administered by the Texas Department of Housing and Community Affairs shall be considered a standard offer program.

(d) **Procedure for determining affiliate status.**

(1) The utility shall have the burden to investigate each energy efficiency service provider that participates in a standard offer or market transformation program to determine whether such energy efficiency service provider is an affiliate of any other energy efficiency service provider that has submitted a project.

§25.181(d) continued

(2) In any proceeding to determine affiliate status, the Energy Efficiency Service Provider (EESP) shall have the burden of proof.

(3) Upon discovering evidence that an energy efficiency service provider is affiliated with another energy efficiency service provider, the utility shall notify such energy efficiency service providers in writing and shall include evidence supporting the allegation with the notification; the utility shall file this notification together with supporting evidence with the commission. If the utility relies upon an affidavit to demonstrate the existence of an affiliate relationship, the affidavit shall conform to Texas Rules of Civil Procedure §166a(f) and Texas cases construing this rule.

(4) Upon discovering evidence that an energy efficiency service provider is affiliated with another energy efficiency service provider, any party (complainant) may file such claim, together with supporting evidence, with the commission. If the complainant relies upon an affidavit to demonstrate the existence of an affiliate relationship, the affidavit shall conform to Texas Rules of Civil Procedure §166a(f) and Texas cases construing this rule. A complainant shall notify the energy efficiency service provider and utility in writing and include all supporting evidence with the notification.

(5) Upon receipt of a utility's or complainant's notification, the energy efficiency service provider will timely respond to the utility's or complainant's allegations and file such response, together with documentation supporting the response, with the commission. If the energy efficiency service providers rely upon an affidavit to contradict any of the utility's evidence, the affidavit shall conform to Texas Rules of Civil Procedure §166a(f) and all Texas cases construing the rule.

(6) All filings submitted pursuant to paragraphs (3), (4), and (5) of this subsection will be used as evidence by the commission to render a decision on affiliate status.

(e) **Cost-effectiveness standard.**

(1) **Cost-effectiveness**. An energy efficiency project is deemed to be cost-effective if the cost of the project to the utility is less than or equal to the benefits of the project. The cost of a project includes the cost of incentives, the measurement and verification costs, and program administrative costs. The benefits of the project include the value of the purchased electrical energy saved, the value of the corresponding generating capacity requirements, and associated reserves displaced or deferred by the project. The present value of the project benefits shall be calculated over the projected life of the measure, not to exceed ten years.

(2) **Avoided cost**. Incentives shall be set as a percentage of the avoided cost. The avoided cost shall be the estimated cost of a new gas turbine.

(A) Initially, the avoided cost of capacity savings shall be set at $78.5/kW saved annually at the customer's meter.

(B) Initially, the avoided cost energy savings shall be set at 2.68 cents/kWh saved annually at the customer's meter.

(C) The commission may adjust the cost effectiveness standard prescribed in subparagraphs (A) and (B) of this paragraph by using an environmental adder up to 20% for targeted projects conducted in an area that is not in attainment for air emission that is subject to the regulations of the Texas Commission on Environmental Quality (TCEQ). The environmental adder is available only for targeted energy efficiency projects that would not be implemented without the adder.

(f) **Annual growth in demand and energy efficiency goal.** Electric utilities shall meet the minimum mandate of 10% reduction in growth in demand through energy efficiency savings by January 1, 2004. Each utility is required to meet, at a minimum, 5.0% of its growth in demand though energy efficiency by January 1, 2003. Each utility's energy efficiency goal shall be specified as a percent of its historical five-year average rate of growth in demand, calculated as follows:

(1) Each year's historical demand growth data shall be adjusted for weather fluctuations, using weather data for the most recent ten years. The utility's growth in demand is based on the average growth in retail load in the Texas portion of the utility's service area, measured at the utility's annual system peak for the immediately preceding five years.

(2) The goal for energy-efficiency savings for a year is calculated by applying the percentage goal, prescribed in this subsection, to the average rate of growth in demand, based on the average of the five preceding annual growth rates. The baseline for calculating demand growth shall be reset each year.

(3) A utility may submit for commission approval an alternative method to calculate its growth in demand, for good cause.

(4) The utility, subject to commission approval, may increase its energy efficiency goal for targeted projects conducted in an area that is an affected county or a nonattainment area, as defined in §25.182 of this title (relating to the Energy Efficiency Grant Program).

(g) **Basic program elements.** Electric utilities shall administer energy efficiency programs designed to achieve reductions in the customer's purchased energy consumption or demand, or both, and lower energy costs through the implementation of standard offer programs or limited, targeted market transformation programs.

(1) Each electric utility shall submit energy efficiency plans and reports to the commission in accordance with subsection (h) of this section.

(2) Incentive payments shall be made under either standard offer contracts or market transformation contracts, or both, for kWs and kWhs saved. The amount of the incentive payment may vary by customer class in order to effectively reach all customer classes, including hard-to-reach customers. Market transformation programs may offer other incentives or benefits as approved by the commission.

(3) Customer protection provisions shall be included in all electric utilities' energy efficiency programs in accordance with subsection (o) of this section.

(4) All projects performed under a standard offer program shall be subject to inspections, measurement, and verification in accordance with subsection (l) of this section. Energy and peak demand savings under market transformation projects shall be verified in accordance with subsection (k) of this section.

(5) The commission shall establish an implementation project, as described in subsection (n) of this section, to address program design, implementation and administration, and make recommendations to the commission.

(h) **Energy efficiency plans.**

(1) **Schedule.** Each electric utility shall by April 1, 2001, and annually thereafter, file its updated energy efficiency plan and an annual energy efficiency report as described in paragraph (4) of this subsection.

(2) **Energy efficiency plan.** Each electric utility's energy efficiency plan shall describe how the utility intends to achieve the legislative mandate and the requirements of this section. Beginning January 1, 2002, the plan shall be on a calendar year cycle and shall project at least a four-year period. The plan shall propose an annual budget sufficient to reach the 10% legislative goal by January 1, 2004, and annually thereafter. Each electric utility's energy efficiency plan shall include:

§25.181(h)(2) continued

(A) A projection of the utility's annual growth in demand based on actual historical data calculated using the methodology and corresponding energy and peak demand savings goal to be achieved under the plan, as defined in subsection (f)(2) of this section.

(B) A description of existing contract obligations and an explanation of the extent to which these contracts will be used to meet the utility's annual energy efficiency requirements. Only additional energy and peak demand savings achieved as a result of projects installed after the effective date of this section may count towards the amount of energy and peak demand savings actually achieved on an annual basis.

(C) An estimate of the energy and peak demand savings to be obtained through each separate standard offer program, market transformation program, or both.

(D) The proposed design and plan for each of the utility's standard offer programs and market transformation programs, including measurement and verification plans when appropriate. For statewide standard offer programs or market transformation programs previously approved by the commission, the program may simply be identified with a description of how it will be implemented in the service territory of the utility. Programs not previously approved by the commission should be presented in detail, including baseline studies, for review and approval.

(E) A description of the customer classes targeted by the utility's energy efficiency programs, specifying the size of the hard-to-reach, residential, small commercial, and large commercial and industrial customer classes, and the methodology used for estimating the size of each customer class.

(F) The incentive levels for each customer class shall be a percentage of the avoided cost set forth in subsection (e) of this section. The incentive levels for individual programs shall be set by each utility subject to the incentive ceilings outlined below and other provisions of this section. Utilities may adjust incentive levels for individual programs during the program year, but such adjustments must be clearly publicized in the program application guidelines. Until the commission adopts different ceilings for incentive levels, incentive levels for standard offer programs may not exceed:
  (i) 100% for hard-to-reach customers.
  (ii) 50% for other residential and small commercial customers.
  (iii) 35% for large commercial and industrial customers.
  (iv) 15% for load management programs.

(G) The proposed annual budget required to implement the utility's standard offer program, market transformation program, or both, broken out by program for each customer class, including hard-to-reach customers, and the amount for the small contractor set-aside pursuant to subsection (i)(4) of this section. The proposed budget should detail incentive payments, utility administrative costs, including the independent M&V expert, and the other administrative functions pursuant to subsection (i)(1) of this section, and the rationale and methodology used to estimate the proposed expenditures.

(H) Savings achieved through programs for hard-to-reach customers shall be no less than 5.0% of the utility's total demand reduction goal.

(I) Savings achieved through load management programs, including interruptible rates, may not exceed 15% of the utility's total demand reduction goal.

(J) A discussion of the types of informational activities the utility plans to use to encourage participation in standard offer programs or market transformation programs, including the manner in which utilities will use to post notice of standard offer programs, market transformation programs, and any other facts that may be considered when evaluating a project.

§25.181(h) continued

(3) Prior to the implementation of the energy efficiency program, the commission shall:
  (A) Approve market transformation programs and standard offer programs.
  (B) Review and approve measurement and verification plans, including deemed savings in accordance with the standard offer or market transformation program guidelines. Projects that require installation-specific measurement and verification may have a measurement and verification process approved by the utility. At the utility's option, the measurement and verification process or deemed savings may be submitted for pre-approval by the commission.

(4) **Annual energy efficiency report.** The annual energy efficiency report shall provide information listed below:
  (A) The utility's projected annual growth in demand calculated using the methodology prescribed in subsection (f) of this section.
  (B) The corresponding energy and peak demand savings goal for the utility, as defined in subsection (f)(2) of this section, expressed in kWs and kWhs, for the current calendar year.
  (C) The utility's actual annual growth in demand for the preceding calendar year.
  (D) The most current information available comparing projected savings to reported savings for each of the utility's standard offer programs and market transformation programs.
  (E) The most current information available comparing reported savings and verified achieved savings as verified by the independent M&V expert for all programs.
  (F) The most current information available comparing the baseline and milestones to be achieved under market transformation programs.
  (G) A statement of funds expended by the utility for incentive payments, program administration pursuant to subsection (i)(1) of this section, including inspections, and the independent M&V expert.
  (H) A statement of any funds that were committed but not spent during the year, by project.
  (I) Any decreases by more than 10% in total program cost, with an explanation for the decrease in cost.
  (J) Any remaining program funds that were not committed during the year.
  (K) The most current information available of ongoing and completed energy efficiency projects by customer class that includes:
    (i) Number of customers served by each project.
    (ii) Project expenditures.
    (iii) Verified energy and peak demand savings achieved by the project, when available.
  (L) A description of proposed changes in the energy efficiency plans.
  (M) Any other information prescribed by the commission.

(i) **Utility administration.** Utilities shall administer standard offer programs, market transformation programs, or both, to meet the requirements of the energy efficiency goal in PURA §39.905. The cost of administration may not exceed 10% of the total program costs.

(1) Administrative costs include costs necessary for utility conducted inspection and the independent M&V expert as required under subsections (l) and (m) of this section, and the costs necessary to meet the following requirements:
  (A) Conduct informational activities designed to explain the standard offer programs and market transformation programs to energy efficiency service providers and vendors.
  (B) Review and select proposals for energy efficiency projects in accordance with the guidelines of the standard offer programs under subsection (j) of this section, and market transformation programs under subsection (k) of this section.

§25.181(i)(1) continued

(C) Inspect projects to verify that measures under a standard offer contract were installed and capable of performing their intended function, as required in subsection (l) of this section, before final payment is made. Such inspections shall comply with PURA §39.157 and §25.272 of this title (relating to Code of Conduct for Electric Utilities and Their Affiliates).

(D) Review and approve energy efficiency service providers' savings monitoring reports for both standard offer contracts and market transformation contracts.

(E) Any other costs as necessary and justifiable for successful program implementation.

(2) A utility administering a standard offer program or a market transformation program shall not be involved in directly providing customers any energy efficiency services, including any technical assistance for the selection of energy efficiency services or technologies, unless the customer is a large commercial customer and the activities are limited to the outreach activities outlined in paragraph (1)(A) of this subsection, or unless a petition for waiver has been granted by the commission pursuant to §25.343 of this title. A utility may provide interested parties a list of EESPs who have participated or are currently participating in the utility's energy efficiency programs. In providing the list, the utility may not endorse or favor any EESP.

(3) The utility shall compensate energy efficiency service providers for energy efficiency projects in accordance with the contract and the requirements of this section. An individual energy efficiency service provider and its affiliates may not receive more than 20% of the total incentive payments available for a particular standard offer program, unless the program is not fully subscribed after 180 days, and the utility has demonstrated that it has performed adequate outreach.

(4) The utility, in its energy efficiency plan pursuant to subsection (h)(2) of this section, shall have a funding set-aside in an amount appropriate to the utility's program budgets for hard-to-reach or residential and small commercial customers for small projects. The commission may adjust the allocation of the set-aside for individual utilities at any time. Under this funding set-aside:

(A) Each incentive request for the hard-to-reach, residential and small commercial customer projects may not exceed $5,000.

(B) A utility may petition the commission for waiver of this limitation if the utility can demonstrate that the utility would not be able to meet its annual energy savings goal under this limitation.

(5) Incentive reserve requests for projects for individual sites or customers exceeding $10,000 shall require a signed affidavit of participation by the project host.

(6) Projects or measures under either the standard offer or market transformation programs are not eligible for incentive payments or compensation if:

(A) A project would achieve demand reduction by eliminating an existing function, shutting down a facility, or operation, or would result in building vacancies, or the re-location of existing operations to locations outside of the facility or area served by the participating utility.

(B) A measure would be installed even in the absence of the energy efficiency service provider's proposed energy efficiency project. For example, a project to install measures that have wide market penetration would not be eligible.

(C) A project results in negative environmental or health effects, including effects that result from improper disposal of equipment and materials.

(D) The project involves the installation of self-generation or cogeneration equipment, except for renewable DSM technologies.

§25.181(i) continued

(7) **Cost recovery and unspent funds.** Funds for achieving the energy efficiency goal will be included in each utility's transmission and distribution rates. Each utility shall track its energy efficiency expenditures separately from other expenditures and report these in their annual energy efficiency report. Funds not spent within a given year shall be considered as a source of funding for the following year, and the commission shall consider utilities' requests to roll over unspent funds on a case-by-case basis in connection with the utilities' annual energy efficiency report filing under subsection (h)(4) of this section.

(8) Each utility shall meet its energy efficiency goal annually through the acquisition of cost-effective energy and demand savings, in accordance with this section . A utility shall be deemed to have met its energy efficiency goal when the utility achieves a 10% reduction in growth in demand calculated as prescribed in subsection (f) of this section.

(A) Funds approved in the utility's rates for the purpose of the energy efficiency goal under PURA §39.905 shall be used exclusively to acquire cost-effective energy efficiency savings, even if such savings exceed the utility's energy efficiency goal.

(B) Notwithstanding the costs approved in the utility's cost of service rates, the utility must acquire cost-effective energy efficiency savings equivalent to at least 10% of the utility's annual growth in demand by January 1, 2004, and each year thereafter, by administering programs consistent with this section.

(j) **Standard offer programs.** A utility's standard offer program shall be implemented through standard offer contracts. The standard offer contract shall describe the terms and conditions according to the requirements of this section for energy efficiency service providers for the delivery of energy efficiency services. Standard offer contracts will be available to any energy efficiency service provider that satisfies the contract requirements within the commission approved program parameters.

(1) Statewide standard offer programs shall be developed and submitted to the commission for approval. Utilities may use the commission approved statewide standard offer programs without further commission review. Other standard offer programs will require commission review for approval.

(2) A utility's standard offer program shall meet the following requirements:

(A) A standard offer program shall be developed to address each customer class. Specific different programs may be developed to address hard-to-reach customers. All customer classes must have access to an equitable share of the incentive funds.

(B) Each standard offer program will offer a standard incentive payment and specify a schedule of payments. The incentive shall be set at a level sufficient to meet the goals of the program and shall be consistent with the ceiling under subsection (h)(2)(F) of this section, or any revised ceiling adopted by the commission. The standard offer incentive payments may include both payments for kW and kWh savings, as appropriate. Except for load management projects, the incentive payment may vary by customer class, but not within a customer class.

(C) Peak demand and energy savings for each project shall be identified in the proposals the energy efficiency service providers submit to the utility.

(D) Standard offer programs shall not limit eligibility to specific technologies, equipment, or fuels, but shall be neutral with respect to such factors. Energy efficiency projects may lead to switching from electricity to another energy source, provided the energy efficiency project results in overall lower energy costs, lower energy consumption, and the installation of high efficiency equipment. Switching from gas to electricity is not allowable under the program.

§25.181(j)(2) continued

(E) Standard offer programs may require maximum load factor criteria for project eligibility.
  (i) Increasing load factors may be subject to a decreasing incentive scale.
  (ii) Load factor caps and corresponding incentive scales must be clearly publicized in the program application guidelines.

(F) All projects must result in a reduction in purchased energy consumption, or peak demand, or both, and a reduction in energy costs for the end-use customer.

(G) Comprehensive projects incorporating more than one energy efficiency measure shall be encouraged. Lighting measures shall be limited to 65% of the savings of each project. When a project consists of lighting measures only, compensation shall not exceed 65% of the ceiling for that class under subsection (h)(2)(F) of this section.

(H) Projects shall result in consistent and predictable energy and peak demand savings over a ten-year period.

(I) A utility shall not condition the provision of any product, service, pricing benefit, or alternative terms or conditions upon the purchase of any other good or service from the utility or its competitive affiliate, except that only customers taking transmission and distribution services from a utility can participate in its energy efficiency programs.

(J) Projects shall disclose potential adverse environmental or health effects associated with the energy efficiency measures to be installed.

(K) Projects shall include the procedures for measuring and reporting the energy and peak demand savings from installed energy efficiency measures, consistent with the requirements under subsection (l) of this section.

(L) Standard offer programs shall provide a complaint process that allows:
  (i) The energy efficiency service provider to file a complaint against a utility.
  (ii) A customer to file a complaint against an energy efficiency service provider. The utility may use customer complaints as a criterion for disqualifying energy efficiency service providers from participating in the program.

(M) Renewable DSM technologies are allowed.

(N) A standard offer program shall require contractors to provide the following:
  (i) Evidence of good credit rating.
  (ii) List of references.
  (iii) All applicable licenses required under state law and local building codes.
  (iv) Evidence of all building permits required by governing jurisdictions.
  (v) Evidence of all necessary insurance.

(O) A utility may use poor performance as a criterion to limit or disqualify an energy efficiency service provider or its affiliate from participating in the programs.

(k) **Market transformation programs**. Market transformation programs are strategic efforts, including, but not limited to, incentives and education designed to reduce market barriers for energy efficient technologies and practices. Market transformation programs must be designed to obtain energy savings and peak demand reductions beyond savings that would be achieved through compliance with building codes and equipment efficiency standards. Utilities should cooperate in the creation of regional or statewide programs, consider statewide administration where appropriate, and where possible, leverage with existing effective national programs that have the potential to save energy in Texas. Statewide market transformation programs shall be developed under the implementation project to address targeted customer classes, as described in subsection (n) of this section. The programs shall be filed for commission review and approval. Utilities may use the statewide commission approved market transformation programs without further commission review. All other

§25.181(k) continued

market transformation programs will require commission review for approval. Market transformation programs shall be conducted through projects that describe the terms and conditions as required under this section for the delivery of energy efficiency services. Market transformation programs must meet the following criteria:

(1) Competitive solicitation shall be the preferred method for contract selection. Pilot projects may be developed by an individual utility, a group of utilities, or an energy efficiency service provider. A utility may request a waiver from the requirements of a competitive solicitation for good cause.

(2) A market transformation project shall identify:
  (A) Project goals.
  (B) Market barriers the project is designed to overcome.
  (C) Key intervention strategies for overcoming those barriers.
  (D) Estimated costs and projected energy and capacity savings.
  (E) A baseline study that is appropriate in time and geographic region. In establishing a baseline, the study shall consider the level of regional implementation and enforcement of the International Energy Conservation Code (IECC), when applicable. However, this consideration shall not preclude establishment of a baseline below the IECC "prescriptive" component performance compliance levels where such compliance is permitted by the IECC through alternative building designs or alternative measures. The baseline for new construction programs shall be developed by the Energy Efficiency Implementation Project (EEIP) and submitted to the commission for approval.
  (F) Project implementation timeline and milestones.
  (G) Method for measuring and verifying savings.
  (H) Period over which savings shall be considered to accrue, including a date for final market transformation.
  (I) Each proposed project shall include a description of how it will achieve the transition from extensive market intervention activities toward a largely self-sustaining market.

(3) The project must be cost-effective, under the standard in subsection (e) of this section.

(4) The project must be designed to achieve energy or peak demand savings, or both, and lasting changes in the way energy efficient goods or services are distributed, purchased, installed, or used.

(l) **Inspection, measurement and verification.** Each standard offer program shall include an industry accepted measurement and verification protocol approved by the commission as part of the detailed energy efficiency plan that will be used to measure and verify energy and peak demand savings to ensure that the goals of this section are achieved.

(1) The energy efficiency service provider is responsible for the measurement of energy and peak demand savings using the approved measurement and verification protocol, and may utilize the services of an independent third party for such purposes.

(2) Commission approved deemed energy and peak demand savings may substitute for the energy efficiency service provider's measurement and verification where applicable.

(3) Each customer shall sign a certification indicating that the measures contracted for were installed before final payment is made to the energy efficiency service provider.

(4) An energy efficiency service provider may request a utility inspection at its own expense in the event a customer refuses to sign the measure installation certification.