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APPLICATION OF ENTERGY TEXAS, INC. FOR AUTHORITY TO ADJUST ITS ENERGY EFFICIENCY COST RECOVERY FACTOR AND REQUEST TO ESTABLISH REVISED COST CAPS	**§ § § § §**	**BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

COMMISSION STAFF'S STATEMENT OF POSITION

On May 3, 2021, Entergy Texas, Inc. (ETI) filed an application with the Public Utility Commission of Texas (Commission) to adjust its energy efficiency cost recovery factor (EECRF). ETI seeks to adjust its EECRF for 2022 to recover a total of $12,080,473 and requests that the Commission approve the adjusted EECRF to be effective with the first billing cycle of January 2022. ETI also requests a good cause exception to establish a higher cost cap for its commercial rate classes than that prescribed in 16 Texas Administrative Code (TAC) § 25.182(d)(7)(C). On May 13, 2021, ETI filed proof of notice. On May 25, 2021, the Commission referred this case to the State Office of Administrative Hearings (SOAH).

On June 30, 2021, SOAH Order No. 2 was filed, scheduling a hearing on the merits for August 16, 2021. Under 16 TAC § 22.141(a), a party that has not prefiled direct testimony is required to file a statement of position no later than three working days before the start of a hearing. Three working days before August 16, 2021, is August 11, 2021. Therefore, this pleading is timely filed.

I. STATEMENT OF POSITION

Staff has reviewed the record and recommends that ETI's application has satisfied all appliable requirements under 16 TAC § 25.182. On June 10, 2021, ETI identified and agreed to remove $149.62 of taxes on financially based incentive compensation inadvertently included in its EECRF request. Accordingly, Staff recommends that ETI's EECRF application be approved, subject to the removal of $149.62 of taxes on financially based incentive compensation.

Avoided cost of energy

Under 16 TAC § 25.182(e), a utility that exceeds its demand and energy reduction goals at a cost that does not exceed the cost caps established under 16 TAC § 25.182(d)(7) is entitled to a performance bonus. However, 16 TAC § 25.181(e)(2) provides that a utility that cannot reasonably operate its energy efficiency programs at the established cost caps may petition for a good cause exception to the rule and a higher EECRF cost cap. In its application, ETI projects that it will not reasonably be able to operate its energy efficiency programs and meet its energy and demand goals at the commercial customer cost cap established under 16 TAC § 25.182(d)(7)(B). Accordingly, ETI's EECRF application includes a request for a good cause exception to the rule and permission to raise its commercial customer cost cap for calendar year 2022.

On July 21, 2021, the Cities Served by Entergy Texas, Inc. (Cities) filed the Direct Testimony of Karl J. Nalepa, asserting that ETI could avoid the need to increase its commercial customer cost cap by petitioning the Commission to use an alternative avoided cost of energy in its performance bonus calculation. While Staff agrees that using an alternative avoided cost of energy could help obviate the need for ETI's requested good cause exception, Staff recommends that ETI is not required to petition for such an alternative cost under 16 TAC § 25.181(d)(3)(B).

Under 16 TAC § 25.182(e), a utility that exceeds its demand and energy reduction goals without exceeding the applicable cost cap is entitled to a performance bonus based on the utility's energy efficiency achievements for the previous program year. The performance bonus is a share of the net benefits (the sum of total avoided costs associated with the eligible programs administered by the utility, minus the sum of all program costs) realized in meeting the demand reduction goal. The avoided costs in the calculation of net benefits include the avoided cost of capacity and the avoided cost of energy, which the Electric Reliability Council of Texas (ERCOT) calculates by determining the load-weighted average of the competitive load zone settlement point prices for peak periods covering the two previous winter and summer peaks. Accordingly, a utility's net benefits rise alongside the avoided cost of energy unless it is offset by changes to the avoided cost of capacity or program costs. While the ERCOT-calculated avoided cost of energy for program year 2020 was higher than normal, the calculation was not challenged in Project No. 38578.

ETI is authorized to use the ERCOT-calculated avoided cost of energy under 16 TAC § 25.181(d)(3)(B). Alternatively, 16 TAC § 25.181(d)(3)(B) also permits ETI to petition the Commission for authorization to use an alternative avoided cost of energy; however, ETI has not petitioned the Commission for such authorization. Staff notes that 16 TAC § 25.181(d)(3)(B) does not require utilities to petition for an alternative avoided cost of energy, and no other utility ever has petitioned to use an alternative avoided cost of energy in an EECRF proceeding. Because ETI did not petition the Commission for authorization to use an alternative avoided cost of energy, ETI is required to use the ERCOT-calculated alternative cost of energy in calculating its performance bonus.

Staff's recommendation

Staff recognizes that the higher-than-normal avoided cost of energy calculated by ERCOT for program year 2020 increased the amount of performance bonus that ETI is eligible for under 16 TAC § 25.182(e). Staff notes that the performance bonus is an important tool for incentivizing utilities' energy efficiency programs, which help reduce demand and increase reliability of the electric grid. Here, ETI complied with all requirements when calculating its performance bonus and is not required to seek authorization to use a lower avoided cost of energy than other utilities in the state.

If the Commission believes that the amount of performance bonus warrants adjustment in light of the revised cost caps ETI requests for the 2022 program year, the Commission has the authority to reduce the performance bonus in the EECRF proceeding in which the bonus is requested.[1]

Further, it is Commission Staff's position that Cities' request to adjust ETI's avoided cost of energy is outside the scope of an EECRF proceeding. The process for establishing a utility's EECRF is governed by 16 TAC § 25.182, which does not contemplate a challenge to the avoided cost of energy used by a utility in its calculations. While 16 TAC § 25.181(d)(3)(A) provides a mechanism for challenging the ERCOT-calculated avoided cost of energy and 16 TAC § 25.181(d)(3)(B) provides that a utility in an area without customer choice may petition the Commission to use an alternative avoided cost of energy, both mechanisms contemplate action outside of an EECRF proceeding.

Accordingly, Staff recommends that, because ETI complied with all applicable requirements, ETI's application should be approved subject to adjustments made to reflect the agreed removal of $149.62 of taxes on financially based incentive compensation.

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[1] *Application of El Paso Electric Company to Adjust its Energy Efficiency Cost Recovery Factor and Establish Revised Cost Cap*, Docket No. 48332, Final Order at Findings of Fact No. 42 and 42A, Conclusion of Law No. 9 (Jan. 17, 2019).

II. CONCLUSION

It is Staff's position that ETI complied with all applicable requirements and that ETI's application should be approved subject to adjustments made to reflect the agreed removal of $149.62 of taxes on financially based incentive compensation.

Dated: August 10, 2021

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS
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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record on August 10, 2021, in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/Courtney Dean
Courtney N. Dean