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OPEN MEETING COVER SHEET

MEMORANDUM

MEETING DATE: October 6, 2022

DATE DELIVERED: September 30, 2022

AGENDA ITEM NO.: #35

CAPTION: Project No. 53971 – Petition for Rulemaking of Lone Star Chapter of the Sierra Club to Amend 16 TAC § 25.181 (Energy Efficiency Goal) and § 25.182 (Energy Efficiency Cost Recovery Factor)

DESCRIPTION: Discussion and Possible Action

Public Utility Commission of Texas

Memorandum

TO: Chairman Peter Lake
Commissioner Will McAdams
Commissioner Lori Cobos
Commissioner Jimmy Glotfelty
Commissioner Kathleen Jackson

FROM: David Smeltzer, Director of Rules and Projects

DATE: September 30, 2022

RE: October 6, 2022 Open Meeting – Agenda Item No. 35
Project No. 53971, *Petition for Rulemaking of Lone Star Chapter of the Sierra Club to Amend 16 TAC § 25.181 (Energy Efficiency Goal) and § 25.182 (Energy Efficiency Cost Recovery Factor)*

On August 10, 2022, the Lone Star Chapter of the Sierra Club filed a petition for rulemaking to amend 16 Texas Administrative Code (TAC) §25.181, relating to Energy Efficiency Goal, and 16 TAC §25.182, relating to Energy Efficiency Cost Recovery Factor. Under Texas Government Code § 2001.021(c), the Commission must deny the modified petition in writing or initiate a rulemaking proceeding by October 7, 2022.

Commission Staff recommends denial of the petition for rulemaking and adoption of the attached draft order.

Discussion

On July 30, 2021, the Commission opened Project 52373, Review of Wholesale Electric Market Design and on August 3, 2021, the Commission issued questions for comment. After consideration of comments submitted by stakeholders, the Commission published its Market Design Blueprint (Blueprint) on January 13, 2022. Sierra Club submitted its petition for rulemaking in response to the Blueprint's discussion relating to the efficiency of Transmission and Distribution Utility (TDU) load management programs. Specifically, the petition proposed significant changes to peak demand reduction and energy efficiency goals, increases in the cost caps for consumers as well as utility investment in low-income programs, adjustments to performance bonuses, and removing barriers to program disclosure.

Comments on the petition were submitted by 31 Organizations collectively filing in support of Sierra Club's rulemaking Petition; AEP Texas, Inc. and Southwestern Electric Power Company (collectively, the AEP Companies); Alison Silverstein Consulting (ASC); the American Council for an Energy Efficient Economy (ACEE); CenterPoint Energy Houston

Electric, LLC (CenterPoint); City of Houston; Enervee; Entergy Texas, Inc. (ETI); Environmental Defense Fund (EDF); Felicito Guerrero; Google LLC (Google); the Office of Public Utility Counsel (OPUC); Oncor Electric Delivery Company (Oncor); Recurve Analytics, Inc.; the Alliance for Retail Markets and Texas Energy Association for Marketers (collectively, REP Coalition); the South-Central Partnership for Energy Efficiency as a Resource; the South-Central Partnership for Energy Efficiency as a Resource (SPEER); Southwestern Public Service Company (SPS); Texas Advanced Energy Business Alliance (TAEBA); and Texas-New Mexico Power Company (TNMP).

Staff Recommendation

Commission Staff recommends that the Commission deny the petition for rulemaking.

The current rulemaking calendar (see Project 52935) cannot presently accommodate Sierra Club's proposed energy efficiency rulemaking without displacing scheduled rulemaking projects that implement legislative requirements, Commission-prioritized directives, or other time-sensitive rule adoptions or amendments.

Commission Staff also maintains that a rulemaking project is premature at this time, because the energy efficiency discussion is progressing in other venues. The bi-annual Energy Efficiency Implementation Plan (EEIP) meeting is scheduled to occur on October 18, 2022 (see Project 38578). Among the topics scheduled for consideration at this meeting is a stakeholder input "brainstorming" session for amendments to §25.181. Furthermore, at a recent open meeting, Chairman Lake requested that Commissioner Jackson take the lead on energy efficiency issues. Commission Staff recommends that the Commission wait until after the bi-annual EEIP meeting occurs to determine the best path forward on energy efficiency and allow Commissioner Jackson and Commission Staff to coordinate on viable timelines for any required rulemaking projects.

PROJECT NO. 53971

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|------------------------------------|----------|----------------------------------|
| PETITION FOR RULEMAKING OF | § | PUBLIC UTILITY COMMISSION |
| LONE STAR CHAPTER OF THE | § | OF TEXAS |
| SIERRA CLUB TO AMEND 16 TAC | § | |
| §25.181 (ENERGY EFFICIENCY | § | |
| GOAL) AND §25.182 (ENERGY | § | |
| EFFICIENT COST RECOVERY | § | |
| FACTOR) | | |

PROPOSED ORDER DENYING PETITION FOR RULEMAKING

On August 10, 2022, the Lone Star Chapter of the Sierra Club (Sierra Club) filed a petition for rulemaking to amend 16 Texas Administrative Code (TAC) §25.181, relating to Energy Efficiency Goal, and 16 TAC §25.182, relating to Energy Efficiency Cost Recovery Factor. Sierra Club's proposed amendments would significantly change peak demand reduction and energy efficiency goals, increase the cost caps for consumers as well as utility investment in low-income programs, set adjustments to performance bonuses, and remove barriers to program disclosure.

The Commission currently has a full slate of rulemaking projects planned to implement legislation passed by the 87th Texas Legislature and address other time-sensitive policy issues. Initiating the requested rulemaking would require the Commission to redirect staff resources away from these planned rulemaking projects and jeopardize the Commission's ability to align its rules with statute in a timely fashion. The Commission is also scheduled to consider related issues on October 18, 2022, at a bi-annual Energy Efficiency Implementation Plan meeting. Therefore, the modified petition for rulemaking is denied.

Signed at Austin, Texas the _____ day of _____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER