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**QUESTIONS FOR COMMENTS ON
ENERGY EFFICIENCY**

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**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

**THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR'S
COMMENTS ON ENERGY EFFICIENCY**

The Steering Committee of Cities Served by Oncor (Cities) submits these comments to the Public Utility Commission of Texas Staff (Commission Staff) regarding the Review of Energy Efficiency Planning filed in Project No. 56517. Staff requested comments from interested persons to be filed by May 23, 2024.¹ Therefore, these comments are timely filed.

I. COMMENTS

As a general matter, Cities appreciate the Commission Staff's efforts to create a framework for the next steps of the wholesale electric market redesign blueprint and energy efficiency planning, and the opportunity to comment on questions related to review and scope of existing rules, and to implement Senate Bill (SB) 1699 from the 88th Legislative Session. Cities supports and encourages energy efficiency measures as they are beneficial to ratepayers and the environment. As requested,² Cities provides an executive summary as the last page of these comments.

1. Should certain hours of the day be considered more valuable within the design standard offer or targeted market-transformation programs offered by utilities? Please discuss your rationale in detail.

Certain hours of the day should be considered more valuable within the design of utilities' standard offer or targeted market-transformation programs. There should be little dispute that the avoided cost of providing energy and capacity will differ depending on the hour of the day. At peak hours of the day, the value of providing service during those hours will be higher. Therefore, programs that offer savings during those peak hours can have a higher standard payment associated with them. Conversely, not all programs are targeted for specific hours of the day.

¹ Questions for Comments (Deadline: May 23, 2024) (Apr. 23, 2024).

² *Id.*

Commission rules define standard offer programs as “a program under which a utility administers standard offer contracts between the utility and energy efficiency service providers.”³ These contracts between an energy efficiency service provider and a participating utility or between a participating utility and a commercial customer specify standard payments based upon the amount of energy and peak demand savings achieved through energy efficiency measures, the measurement and verification protocols, and other terms and conditions. The Commission rules also define market transformation programs as “strategic programs intended to induce lasting structural or behavioral changes in the market that result in increased adoption of energy efficient technologies, services, and practices...”⁴ A utility with a standard offer or targeted market transformation program should make it clear that these programs are intended for specific hours of the day and provide documentation that the standard offer or market transformation program payments are cost effective.

2. What metrics should be used to track the success of low-income and hard-to-reach programs under 16 Texas Administrative Code (TAC) §25.817?

To begin, the Commission should define “low-income customer” in the rule and establish the difference between low-income and hard-to-reach customers. The energy efficiency rules do not define “low-income customers,” but define “hard-to-reach customers” as “residential customers with an annual household income at or below 200% of the federal poverty guidelines.”⁵ Apparently, the Commission intends that these be separate groups of customers, as reflected by the rule language: “Any (low-income) funds that are not obligated after July of a program year may be made available for use in the hard-to-reach program.”⁶

Further, the energy efficiency rules provide for targeted low-income⁷ and hard-to-reach energy efficiency⁸ programs but only include a budget set aside for low-income customers.⁹ The rules measure the cost-effectiveness of low-income programs using the Savings-to-Investment

³ 16 Tex. Admin. Code § 25.181(c)(55) (TAC).

⁴ 16 TAC §25.181(c)(37).

⁵ 16 TAC § 25.181(c)(27).

⁶ 16 TAC § 25.181(p)(3).

⁷ 16 TAC § 25.181(p).

⁸ 16 TAC § 25.181(e)(3)(F).

⁹ 16 TAC § 25.181(p)(1).

ratio (SIR)¹⁰ rather than a cost-benefit analysis but provide no similar measure for hard-to-reach customers. Thus, the Commission needs to establish a measure for hard-to-reach customers. Once the Commission establishes a definition for “low-income customer,” the Commission can establish the metrics that should be used to track the success of low-income and hard-to-reach programs.

Cities recognize that the low-income and hard-to-reach customers are a utility’s most vulnerable customer groups and further suggest that success be measured by the number of customers reached and invested dollars per customer. In addition, a utility should track the specific programs deployed by utilities within these groups and the expected savings per program. This will allow the demand and energy savings to be tracked.

3. Avoided cost of capacity and energy:

a. Existing 16 TAC §25.181(d)(2) calculates the avoided cost of capacity. Should this calculation be revised in a future energy efficiency rulemaking? If so, how? Please discuss your rationale in detail.

The avoided cost of capacity calculation as described in 16 TAC 25.181(d)(2)(A) is reasonable, however, 16 TAC 25.181(d)(2)(B) should allow any party to propose an alternative avoided cost calculation for utilities not operating in ERCOT.

An energy efficiency program is deemed to be cost-effective if the cost of the program to the utility is less than or equal to the benefits of the program.¹¹ The benefits of a program consist of the value of the demand reductions and energy savings, measured in accordance with avoided costs.¹² The Commission defines the avoided cost of capacity as the overnight cost of a new conventional combustion turbine or a new advanced combustion turbine.¹³

This methodology provides the proxy cost of the generating unit avoided by the energy efficiency program. Absent an ERCOT capacity auction which would set the market value of capacity, the existing avoided cost of capacity calculation is reasonable. However, the rule allows a utility in an area in which customer choice is not offered to petition the Commission for authorization to use an avoided cost of capacity other than the standard avoided cost calculation.¹⁴

¹⁰ 16 TAC § 25.181(p)(2); *see also* 16 TAC § 25.181(c)(50).

¹¹ 16 TAC § 25.181(d).

¹² 16 TAC § 25.181(d)(1).

¹³ 16 TAC § 25.181(d)(2).

¹⁴ 16 TAC § 25.181(d)(2)(B).

While it makes sense for utilities not operating in ERCOT to propose a different avoided cost calculation, the rule should allow any party, not just the utility, to propose an alternative calculation. Currently, it may be in the best interest of the utility, but not its customers, to choose an alternative calculation of avoided cost of capacity and under the existing rule, customers have no process to challenge the avoided cost.

b. Existing 16 TAC §25.181(d)(3) calculates the avoided cost of energy. Should this calculation be revised in a future energy efficiency rule making? If so, how? Please discuss your rationale in detail.

Along with the avoided cost of capacity, the Commission defines the avoided cost of energy as the load-weighted average of the competitive load zone settlement point prices for the peak periods covering the two previous winter and summer peaks.¹⁵ This methodology provides a reasonable peak energy value within ERCOT. However, as experienced by the market upset caused by Winter Storm Uri, the Commission should be open to revisions to the calculation even if the revisions are not strictly to correct an error but to adjust for an out-of-market situation.

Like the avoided cost of capacity calculation, the rule allows a utility in an area in which customer choice is not offered to petition the commission for authorization to use an avoided cost of energy other than the standard avoided cost calculation.¹⁶ While it makes sense for utilities not operating in ERCOT to propose a different avoided cost calculation, the rules should allow any party, not just the utility, to propose an alternative calculation. Currently, it may be in the best interest of the utility, but not its customers, to choose an alternative calculation of avoided cost of energy and under the existing rule, customers have no process to challenge the avoided cost.

4. Existing 16 TAC §25.182 calculates utility performance bonuses. Should this calculation be revised in a future energy efficiency rulemaking? If so, how? Please discuss your rationale in detail.

Cities recommend calculating the performance bonus after 200% of demand goal is reached. A performance bonus should only be awarded for performance above and beyond expectations. Yet, every utility operating in ERCOT earns its performance bonus every year. To earn a bonus, a utility that exceeds 100% of its demand and energy reduction goals receives a

¹⁵ 16 TAC § 25.181(d)(3).

¹⁶ 16 TAC § 25.181(d)(3)(B).

bonus equal to 1% of the net benefits for every 2% that the demand reduction goal has been exceeded, with a maximum of 10% of the utility's total net benefits.¹⁷

By way of comparison, in their respective 2023 energy efficiency cost recovery factor (EECRF) proceedings, Oncor achieved 261% of its energy efficiency goal and earned a performance bonus of \$20.5 million.¹⁸ CenterPoint achieved 334% of its energy efficiency goal and earned a performance bonus of \$16.1 million.¹⁹ AEP Texas achieved 256% of its energy efficiency goal and earned a performance bonus of \$6.1 million.²⁰ TNMP achieved 252% of its energy efficiency goal and earned a performance bonus of \$1.2 million.²¹

Each of these utilities greatly exceeded their demand goals and thus earned a performance bonus. While Cities support as much cost effective demand savings as possible, the fact that each of these utilities reported demand savings of more than twice their respective goals suggests that bonuses under the existing rule are almost automatic so the bonus threshold should be increased. Cities recommend calculating the performance bonus after 200% of the demand goal is reached. Based on the 2023 energy efficiency cost recovery proceedings, if performance bonuses were calculated after 200% of demand goal is reached, each of the utilities would have still earned a bonus, but it would have been a much more modest result.

Furthermore, under the energy efficiency rule, “[A] bonus earned under this section shall not be included in the utility’s revenues or net income for the purpose of establishing the utility’s rates or Commission assessment of its earnings.”²² This is essentially a bonus on a bonus and is

¹⁷ 16 TAC § 25.182(e).

¹⁸ *Application of Oncor Electric Delivery Company LLC to Adjust Its Energy Efficiency Cost Recovery Factor*, Docket No. 55074, *Application of Oncor Electric Delivery Company LLC to Adjust Its Energy Efficiency Cost Recovery Factor*, Exhibit GDJ-3 (May 31, 2023) (Application).

¹⁹ *Application of CenterPoint Energy Houston Electric, LLC to Adjust Its Energy Efficiency Cost Recovery Factor*, Docket No. 55088, *Application of CenterPoint Energy Houston Electric, LLC to Adjust Its Energy Efficiency Cost Recovery Factor*, Exhibit MDV-2 (June 1, 2023) (Application).

²⁰ *Application of AEP Texas Inc. to Adjust Its Energy Efficiency Cost Recovery Factor and Related Relief*, Docket No. 55094, *Application of AEP Texas Inc. to Adjust Its Energy Efficiency Cost Recovery Factor and Related Relief*, AEP Texas Performance Bonus Calculator (June 1, 2023) (Application).

²¹ *Application of Texas-New Mexico Power Company to Adjust Its Energy Efficiency Cost Recovery Factor and Related Relief*, *Application of Texas-New Mexico Power Company to Adjust Its Energy Efficiency Cost Recovery Factor and Related Relief*, Docket No. 55034, Direct Testimony of Stefani M. Case at 2-4 (May 26, 2023) (Application).

²² 16 TAC 25.182(c)(7).

not necessary to encourage utilities to exceed their demand and energy goals. Cities recommend this clause be removed from the rule.

5. Existing 16 TAC §25.181 addresses energy savings and demand reduction goals. Should these existing goals be revised in a future energy efficiency rulemaking? If so, how? Please discuss your rationale in detail.

The current energy savings and demand reduction goals strike a fair balance between cost and savings, and do not currently recommend the existing goals be revised in a future energy efficiency rulemaking. Utilities' energy efficiency budgets are massive. In the 2023 EECRF proceedings, these utilities requested approval of the following budgets: Oncor - \$72.4 million,²³ CenterPoint - \$52.6 million,²⁴ AEP Texas - \$24.8 million,²⁵ and TNMP - \$5.6 million.²⁶

As described in Cities' response to question four, utilities have already demonstrated that they can exceed the current goals under the existing cost caps. Since utilities have been able to meet and exceed the current goals, Cities does not oppose increasing the existing goals so long as the cost to ratepayers do not increase.

6. In the upcoming rulemaking to implement SB 1699, what other issues should be considered? Should the existing energy efficiency rules be restructured? Please discuss your rationale in detail.

SB 1699 in part requires the Commission by rule to establish goals in the ERCOT power region to reduce average total residential load. The focus of the rule is the adoption of demand response programs. This rulemaking provides the ideal opportunity to segregate, by rule, programs that implement permanent energy efficiency measures from programs that implement temporary demand response and load management programs. Demand response and load management programs provide effective peak demand reductions but are not permanent energy efficiency measures. Load management programs are designed to curtail load during peak periods, while energy efficiency programs involve the installation of energy efficiency measures, including the removal of an inefficient appliance or installation of thermal energy storage. Programs that implement temporary demand response or load management measures and permanent energy efficiency measures should not be conflated, as they often are.

²³ Docket No. 55074, Application at 4.

²⁴ Docket No. 55088, Application at 3.

²⁵ Docket No. 55094, Application at 3.

²⁶ Docket No. 55034, Application at 4.

It is especially revealing that load management programs comprise 64% of Oncor's demand savings,²⁷ 75% of CenterPoint's demand savings,²⁸ 54% of AEP Texas' demand savings,²⁹ and 53% of TNMP's demand savings³⁰ in their respective 2023 EECRF filings. Load management programs have been the predominant reason that utilities have far exceeded their demand reduction goals, as discussed earlier in question five. Developing two rules: one that addresses the benefits of permanent energy efficiency programs and one that addresses the temporary but effective demand response and load management programs, will strengthen the implementation of both types of load reduction mechanisms. Separating these programs may also help the Commission manage the performance bonus issue it is seeking comments on in question four.

7. What activities should the Energy Efficiency division prioritize over the next twelve months?

The need to develop rules to implement SB 1699 provides the ideal opportunity to concurrently restructure the current energy efficiency rule to segregate measures that implement permanent energy efficiency programs from measures that implement temporary demand response and load management programs. The Energy Efficiency division should prioritize this restructuring of the rule and at the same time adopt the other rule revisions described by Cities in the comments above.

²⁷ Docket No. 55074, Application, Exhibit GDJ-3.

²⁸ Docket No. 55088, Application, Exhibit MDV-2.

²⁹ Docket No. 55094, Application, AEP Texas Performance Bonus Calculator.

³⁰ Docket No. 55034, Application, Direct Testimony of Stefani M. Case at 2-4.

Respectfully submitted,

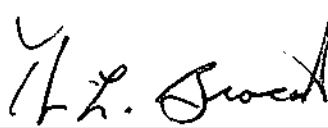
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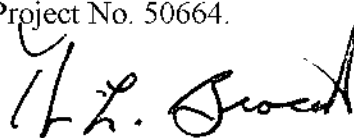
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**ATTORNEYS FOR THE STEERING
COMMITTEE OF CITIES SERVED BY
ONCOR**

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 via electronic mail on May 23, 2024, in accordance with the Order Suspending Rules, issued in Project No. 50664.



THOMAS L. BROCATO

EXECUTIVE SUMMARY

STEERING COMMITTEE OF CITIES SERVED BY ONCOR'S COMMENTS ON ENERGY EFFICIENCY

As requested, Cities provides the following executive summary of comments related to review and scope of existing rules, and to implement Senate Bill (SB) 1699 from the 88th Legislative Session.

Question 1:

- Yes, certain hours of the day should be considered more valuable within the design of utilities' standard offer or targeted market-transformation programs.
- Utilities that have programs that offer savings during peak hours may have a higher standard payment associated with the program.
- Utilities should specify whether their programs offered are intended for specific hours of the day and provide documentation showing that the standard offer or market transformation program payments are cost effective.

Question 2:

- The Commission should first define "low-income customer" in 16 TAC § 25.187.
- The Commission should establish the difference between low-income and hard-to-reach customers since language from the rule, specifically 16 TAC § 25.181(p)(3), indicates the Commission intends these to be separate groups of customers.
- The Commission should then establish rules to measure the cost-effectiveness for hard-to-reach programs.
- The success of low-income and hard-to-reach programs should be measured by the number of customers reached and invested dollars per customer.
- In order to allow the demand and energy savings to be tracked, a utility should track the specific programs deployed by utilities within these groups and the expected savings per program.

Question 3(a):

- The avoided cost of capacity calculation described in 16 TAC § 25.181 (d)(2)(A) is reasonable.
- The rule, specifically 16 TAC § 25.181(d)(2)(B), allows a utility in an area in which customer choice is not offered to petition the Commission for authorization to use an avoided cost of capacity other than the standard avoided cost calculation, should be revised to allow any party to propose an alternative calculation.

Question 3(b):

- As experienced by the market upset caused by Winter Storm Uri, the Commission should be open to revisions to the avoided cost of energy calculation even if the revisions are not strictly to correct an error, but to adjust for an out-of-market situation.
- Additionally, the rule, which allows a utility in an area in which customer choice is not offered to petition the Commission for authorization to use an avoided cost of capacity

other than the standard avoided cost calculation, should be revised to allow any party to propose an alternative calculation.

Question 4:

- Due to the fact that utilities reported demand savings of more than twice their perspective goals suggests that bonuses under the existing rule are almost automatic and the bonus threshold should be increased.
- The calculation of performance bonus should be after 200% of the demand goal is reached.
- Additionally, the rule allows utilities to not include an earned bonus under the energy efficiency rule in the utility's revenues or net income for the purpose of establishing the utility's rates or Commission assessment of its earnings. This clause should be removed from the rule since it results in a bonus of a bonus and is not necessary to encourage utilities to exceed their demand and energy goals.

Question 5:

- The current energy savings and demand reduction goals strike a fair balance between costs and savings and do not need to be revised in a future energy efficiency rulemaking.
- However, Cities does not oppose increasing the existing goals so long as the cost to ratepayers does not increase.

Question 6:

- During the rulemaking to implement SB 1699, two rules should be established that separate programs that implement permanent energy efficiency measures from programs that implement temporary demand response and load management programs.
- Load management programs have been the predominant reason utilities have far exceeded their demand reduction goals.
- Developing two rules: one that addresses the benefits of permanent energy efficiency programs and one that addresses the temporary but effective demand response and load management programs, will strengthen the implementation of both types of load reduction mechanisms.

Question 7:

- The Energy Efficiency division should prioritize the segregation of measures that implement permanent energy efficiency programs from measures that implement temporary demand response and load management programs, and other rule revisions as described by Cities in response to questions 1-6.