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**REVIEW OF ENERGY EFFICIENCY  
PLANNING**

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**BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ONCOR ELECTRIC DELIVERY COMPANY LLC’S RESPONSES TO COMMISSION  
STAFF’S QUESTIONS FOR COMMENT**

**TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:**

Oncor Electric Delivery Company LLC (“Oncor”) files these initial comments in response to the Public Utility Commission of Texas (“Commission”) Staff’s April 23, 2024 questions for comment posed to interested parties regarding performance standards for energy efficiency programs. In particular, Commission Staff’s questions, and Oncor’s comments in response, relate to transmission and distribution utility (“TDU”) energy efficiency programs administered under PURA<sup>1</sup> § 39.905 and 16 Tex. Admin. Code (“TAC”) §§ 25.181 (the “Energy Efficiency Rule”), 25.182, and 25.183. Oncor appreciates this opportunity to respond to Commission Staff’s questions.

**I. GENERAL COMMENTS**

Before addressing each of Commission Staff’s specific questions, it is first important to note that TDU energy efficiency programs have performed well and provided valuable benefits to this state since the restructuring of the Texas electric market. These programs have delivered substantial energy and demand reductions over the past two decades, and those reductions continue to grow with the vibrant, growing economy in Texas.

Based on data contained in the U.S. Energy Information Administration’s (“EIA”) most recent reports, Texas ranks fifth in the nation for megawatt demand reduction and seventh in the nation for overall megawatt-hour energy savings.<sup>2</sup> Additionally, when ranking customer bills from

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016 (“PURA”).

<sup>2</sup> *Energy Information Administration – 2022 final data zip file – Energy\_Efficiency\_2022 Spreadsheet* – release date October 5, 2023, available at: <https://www.eia.gov/electricity/data/eia861/> (which Oncor summed and ranked by state) (last accessed on May 20, 2024).

highest to lowest, customer bills in Texas rank 28th in the nation.<sup>3</sup> Thus, Texas is delivering significant demand and energy savings while also managing customer bill impacts, even when compared to states with fully integrated utilities.

While some commenters may suggest otherwise, the current Texas legislative and regulatory frameworks for energy efficiency are working well and are successfully incenting and capturing a high level of energy efficiency benefits. While EIA data indicates that a majority of states have showed decreased energy savings over the past few years (with some states not accomplishing as much savings as they were just five years ago), Texas has actually increased savings by 49% during that same time and is ranked third in the nation.<sup>4</sup> This competitive ranking against other states is especially noteworthy given that comparisons of Texas's energy efficiency performance against the performance of other states is often not an accurate, apples-to-apples comparison. This imprecision is due to the fact that in Texas, not all electrical cooperatives' or municipally owned utilities' energy efficiency savings and benefits are captured in EIA Form 861 data. Additionally, the energy efficiency savings of those industrial customers in Texas who have opted out of paying into the energy efficiency cost recovery factor ("EECRF") are not tracked and captured in data reported for the state. Thus, the amount of energy efficiency savings and benefits currently being reaped in Texas is not fully captured or reported. This makes Texas's competitive ranking against other states even more impressive.

Oncor identifies and recommends below certain areas of opportunity for minimal adjustments to the Energy Efficiency Rule, but for the reasons discussed above, there is no need at this time for a significant revision of that rule. Not only is significant revision unnecessary, it could lead to unintended consequences. Changes to performance standards or goals could, in conjunction with changes to federal or local requirements, make it impossible for TDUs to achieve those standards or goals, which is disadvantageous not just for the TDUs but for the state as a whole. And while other interested parties have previously pushed for decarbonization and have attempted to link that agenda with energy efficiency, these are two distinct topics that should not be intertwined. A desire for decarbonization does not necessitate a change to the Energy Efficiency

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<sup>3</sup> *Energy Information Administration* – 2022 final data zip file – Sales\_Ult\_Cust-2022 Spreadsheet – release date October 5, 2023, available at: <https://www.eia.gov/electricity/data/eia861/> (which Oncor summed by state) (last accessed on May 20, 2024).

<sup>4</sup> Oncor determined the change in annual energy savings over this time period by subtracting the 2018 EIA 861 data from the 2022 EIA 861 data.

Rule.

In addition to Oncor's responses set forth below, Oncor also generally supports the joint comments being submitted by the Electric Utility Marketing Managers of Texas in response to Commission Staff's questions.

## II. RESPONSES TO COMMISSION STAFF'S QUESTIONS

**Question No. 1 – Should certain hours of the day be considered more valuable within the design of standard offer or targeted market-transformation programs offered by utilities?**

**Please discuss your rationale in detail.**

**Oncor's Response** – Yes, it is appropriate to consider and treat certain hours of the day as more valuable than others within the design of standard offer or targeted market-transformation programs offered by utilities. Time and location-based energy efficiency and demand response programs can provide significant value to the grid. PURA § 39.905 and the Energy Efficiency Rule set forth peak demand goals and require that TDUs implement programs to reduce system peak demand. Peak periods typically occur during certain times of the day during summer and winter seasons and are defined in 16 TAC § 25.181(c)(44)-(46). Additionally, the Texas Technical Reference Manual ("TRM"), Volume 1, Section 4 recognizes the value of time-based programs and provides guidance on the calculation of peak demand savings based on the probability of system peak for each hour of the day. This methodology is used for establishing deemed demand savings for various energy efficiency measures.

The electric grid and market are evolving. Texas's extraordinary economic and population growth have driven a significant increase in electricity demand that is expected to continue for the foreseeable future. Meanwhile, the resource mix has also changed, with interconnections of intermittent renewable resources far outpacing dispatchable generation resources over the past decade, along with increased development of distributed energy resources. This increased penetration of intermittent renewable resources has shifted the times with tightest grid conditions from the hours of peak load to the hours of peak *net* load (i.e., system demand minus solar and wind resource output), when solar output ramps down and the grid must rely on dispatchable resource availability and wind generation to serve the system demand. During summer, peak net load typically occurs later in the evening, after sunset and after the peak system load. In the winter season, peak net load typically occurs before sunrise and after sunset.

Furthermore, while tight grid conditions tend to occur during peak summer and peak winter

seasons, resource scarcity risks also exist in the spring and fall shoulder months, when generators and transmission service providers schedule planned outages to perform maintenance and system upgrades ahead of the peak seasons. An unseasonably hot or cold spell or elevated levels of unplanned resource outages during these months could result in lower reserves and increased system reliability risk. Examples of tight shoulder month grid conditions include the recent Energy Emergency Alert-2 event called by the Electric Reliability Council of Texas, Inc. (“ERCOT”) on September 7, 2023 and the Weather Watch issued by ERCOT for May 8, 2024.

This changing landscape provides an opportunity for demand side efforts to support the grid during critical periods, which include peak net load hours and the shoulder months. A continued focus on reducing demand during peak load periods, while also considering reduction of demand during peak *net* load hours and times when localized transmission and distribution constraints are significant, should be the goal of TDU energy efficiency programs. Oncor’s specific recommendations in this vein are as follows:

- Study and develop recommendations around time and location-based energy efficiency and demand response programs.
- Study and consider expanding the definition of peak demand to “critical hours” that may include times outside of normal peak periods when grid events or local infrastructure constraints may occur.
- Reevaluate the TRM probability tables (which, as explained above, assign a probability of reducing on-peak demand for each hour of the day) and increase off-peak critical hour probabilities to encourage program and measure development.
- Consider raising demand reduction savings from program activities during off-peak times to count toward goals.
- Avoid using automated meter data as the real-time evaluation of savings. Using automated meter data to determine program measure savings does not provide sufficient value to justify the additional customer cost and may result in barriers to program participation. It could also prevent timely payment to service providers, and it is not a method free of estimations or assumptions. Instead, deemed savings should be used as the starting point, and meter data can be used as an after-the-fact, year-end check for purposes of making adjustments to deemed savings if and when necessary.

This is similar to what entities such as Tetra Tech, Inc. are already doing for certain energy efficiency measures at the conclusion of each program year.

- Clarify the TDUs' role in the load management market. On the one hand, over the last several legislative sessions, the Legislature has reaffirmed that TDUs are allowed (and has suggested TDUs should be encouraged) to use load management programs. Commission Staff, on the other hand, has previously alluded to potentially capping load management programs to a percentage of a TDU's total portfolio of demand reduction, suggesting perhaps that such programs are not encouraged. The Commission should also provide guidance on whether its preference is that such programs address only energy as opposed to continued pursuit of peak demand reduction through demand response programs.

**Question No. 2 – What metrics should be used to track the success of low-income and hard-to-reach programs under 16 Texas Administrative Code (TAC) §25.181?**

**Oncor's Response** – TDU low-income and hard-to-reach programs play an important role in ensuring that energy efficiency services are available to all customers in our service areas. The Legislature and the Commission separately established specific goals for low-income and hard-to-reach customers, with PURA § 39.905(f) imposing a goal of not less than 10% of the TDU's energy efficiency annual budget to be used for targeted low-income programs and 16 TAC § 25.181(e)(3)(F) setting a 5% reduction of demand goal for hard-to-reach programs. Irrespective of the metrics that may be selected for tracking the success of these programs, those metrics should only be used as a gauge or measurement tool and should not add yet another distinct goal or requirement that TDUs are expected to meet.

The metrics used for federal low-income programs provide a variety of example metrics that could be used to evaluate program reach. Examples of possible metrics include customer participation, customer satisfaction, types of measures installed, measures not installed (gaps in program design), and pre- or post-energy reduction, to name a few. Any review of low-income and hard-to-reach programs should include not only the metrics to gauge success, but also the identification of participation barriers and a review of qualification procedures. These are inherent issues with low-income programs that need to be considered. Additionally, other potentially available measures should be considered during this review.

Oncor's recommendations for reviewing TDU low-income and hard-to-reach programs include the following:

- Limit metrics to those that influence program participation, program design, customer satisfaction, and delivery equity.
- Do not create barriers to participation due to metric data collection.
- Any metrics selected should be used only to track program participation and influence program design, but should not be imposed as additional goals for, or requirements on, TDUs. Doing so would not add value.
- Consider expanding the definition of "hard-to-reach customers" to include rural customers and other customer segments such as residential rental properties.
- Update program qualifications to match the latest federal standards, such as using area median income instead of percent of poverty level when defining "hard-to-reach customers" in 16 TAC §25.181(c)(27).
- Consider establishing a state-wide program qualification portal made available to TDUs, TDU contractors, and customers.

**Question No. 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.**
- b. Existing 16 TAC § 25.181(d)(3) calculates the avoided cost of energy. Should this calculation be revised in a future energy efficiency rulemaking? If so, how? Please discuss your rationale in detail.**

**Oncor's Response** – Generally speaking, the avoided cost of energy and capacity calculations are sufficient to represent the value of TDU energy efficiency programs. Although Oncor does not believe any significant revisions to the calculations are required, we do have minor recommendations:

- The methodology for calculating the avoided capacity cost should be demonstrable such that it could be independently verified.
- Identify methods to reduce the year-to-year fluctuation in avoided energy costs to allow for better program planning (i.e., using five-year rather than two-year averaging).

- Utilize the published avoided cost one year out, not in the upcoming year (for example, if published November 2024, it becomes applicable January 2026), due to the difficulty in program planning when TDUs' energy efficiency plans and reports are due before the next year's avoided costs are published.

**Question No. 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.**

**Oncor's Response** – Performance incentives outlined in PURA and 16 TAC § 25.182 are working as designed, and the calculation is not in need of significant revision. The incentives are encouraging TDUs to exceed goals and expand programs. Performance incentives are based on the utility's energy efficiency achievements for the previous program year. This value is determined by calculating the net benefits of the programs, which benefit all customers on the system. All of the utility's customers benefit from these programs because the net benefits of the programs encourage TDUs to install longer life energy efficiency measures, not just single year or load management measures. Because net benefits are reduced as program costs rise, TDUs pay attention to minimizing customer cost. To ensure a majority of the benefit goes to the customer and the state, performance incentives are capped at only 10% of the total net benefits.

Net benefits are also influenced by avoided costs. Recently, high avoided energy costs have increased performance incentives above historical average levels, and as the value of TDU programs increase, the performance incentive rises accordingly. Incentives for TDUs are constantly subject to change and fluctuation up or down, however, based on the level of avoided costs and the total achievement above goals. This fluctuation is expected based on the manner in which performance incentives are calculated and how they were designed, and a periodic rise should not be interpreted as a need to revise the calculation. Oncor believes there are methods to limit customer bill exposure and maintain EECRFs at reasonable levels. Our recommendations include the following:

- Avoid making any adjustments to the performance incentive calculation in vacuum; if any adjustments are made, take into consideration other Energy Efficiency Rule changes, such as any proposed changes to goals, avoided costs, cost caps, etc. If adjustments are not made holistically, then the goals could easily become unachievable by TDUs, thereby eliminating the incentive for TDUs to provide the programs.



- To minimize customer and TDU risk, an upper limit could be established on performance incentives. Oncor recommends capping it at 50% of a TDU's energy efficiency budget.
- Remove the performance incentive as an operational cost for cost cap compliance. Its current inclusion in operational costs discourages program expansion and limits customer incentives. This is because performance incentives are allocated to customer classes based on energy efficiency costs in those classes. In some cases, such as in load management, the allocation of incentives can significantly bring down program cost effectiveness. This is due to the lack of significant energy savings to increase net benefits. Thus, if the performance incentive continues to be included as an operational cost, then TDUs may no longer be incentivized to provide certain programs.

**Question No. 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.**

**Oncor's Response** – Current TDU program goals are at an appropriate level. As discussed above, Texas is a leader in demand and energy savings under current program rules and goals. Current goals provide a good balance between customer cost, program size, and availability to customers. Additionally, federal regulations and funding, as well as equipment standards and local codes, are reducing the available measures in TDU programs. Most recently, federal residential lighting standards were changed based on the Energy Independence and Security Act of 2007, thereby reducing Oncor's portfolio energy savings by over 35%. We continue to see erosion of savings from key measures such as air conditioning and weatherization. Oncor continues to research new energy efficient measures and program designs to maintain savings levels and achieve current goals.

Goal calculation revisions by the Legislature should not be done in isolation and should take into consideration the following:

- customer cost;
- energy equity and impact on low-income customers;
- cost caps;
- avoided costs;
- customer participation;
- federal standards and funding;

- the evolving Texas energy market; and
- the competitive restrictions placed on TDUs.

Energy efficiency goals are established in PURA § 39.905 and are definitive. The Legislature created and approved goal calculations that are designed to raise TDU goals in concert with system load growth. Over the past five years, Oncor's demand goal has increased by over 40%. PURA § 39.905 outlines Commission authority related to energy efficiency oversight, including the authority to establish *incentives* and to *reward* utilities for exceeding the statutory goal.<sup>5</sup> Goal revision or development is not included in the list of Commission responsibilities. Based on the statutory language, Oncor believes that any revisions to demand goal calculations would require a legislative change.

**Question No. 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.**

**Oncor's Response** – Oncor defers to the Commission on the issues that should be considered in rulemaking efforts to implement Senate Bill ("SB") 1699. Oncor notes, however, that SB 1699 added an entirely new section to PURA Chapter 39 (specifically, § 39.919, "Average Total Residential Load Reduction Goals") pertaining to goals for reducing the average total residential load, which is separate from the goals set forth in the Energy Efficiency Rule. This indicates that only a rulemaking for a new rule to implement the new statute is likely warranted, not a rulemaking to open up the current Energy Efficiency Rule for general revision. The only SB 1699 issue that should potentially be addressed in a limited rulemaking on the Energy Efficiency Rule is the provision in new § 39.919(d) that allows TDUs to use up to 10% of their demand response budget on retail electric provider ("REP") programs. All other issues should be addressed in a separate rulemaking specifically related to REP responsibilities. The Energy Efficiency Rule currently addresses provisions relating to REP participation in TDU energy efficiency programs, and no further revision is necessary.

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<sup>5</sup> See PURA § 39.905(b)(2).

**Question No. 7 – What activities should the Energy Efficiency division prioritize over the next twelve months?**

**Oncor's Response** – Oncor recommends that the Energy Efficiency Division focus on the following topic areas:

- Address SB 1699 in a rulemaking outside of the Energy Efficiency Rule.
- Reduce barriers and increase measures available to low-income and hard-to-reach customers.
- Evaluate the coordination of federal funds and TDU energy efficiency programs.
- Review matters holistically, not in isolation.
- Redesign the Commission's energy efficiency implementation project ("EEIP") and stakeholder forums to be more collaborative and effective so that EEIP can serve as the clearinghouse of program design recommendations. As a result, the EECRF proceeding each June can better focus on budget and execution of the Energy Efficiency Plan and Report filed that April. Greater collaboration and participation in EEIP would likely help to better streamline and protect the intended scope of EECRF proceedings.<sup>6</sup>

**III. CONCLUSION**

As set forth above, PURA § 39.905, combined with the Commission's existing Energy Efficiency Rule, are successfully incenting energy efficiency and are providing appropriate rewards to those TDUs who are able to achieve reductions in excess of the statutory energy efficiency goals. While minor adjustments to the Energy Efficiency Rule may be worth considering, significant revisions to the Energy Efficiency Rule are unnecessary, unwarranted, and could lead to unintended consequences, for the reasons set forth above. Oncor appreciates the opportunity to respond to Commission Staff's questions posed in this Project and the opportunity to submit suggested recommendations with respect to energy efficiency. Oncor respectfully requests Commission Staff's full consideration of the comments and recommendations set forth above and in the Executive Summary attached hereto.

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<sup>6</sup> See *Rulemaking Proceeding to Amend Energy Efficiency Rules*, Project No. 39674, Order Adopting Amendments to § 25.181 as Approved at the September 28, 2012 Open Meeting at 141 (Oct. 11, 2012) (describing the scope of an EECRF proceeding and explaining that the EEIP process is to include robust discussion on proposed programs and program design changes).

Respectfully submitted,

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## **ONCOR ELECTRIC DELIVERY COMPANY LLC'S RESPONSES TO COMMISSION STAFF'S QUESTIONS FOR COMMENT**

### **EXECUTIVE SUMMARY**

- Under the current statutory and regulatory regime, TDU energy efficiency programs are performing well and have delivered substantial energy and demand reductions.
- While minor adjustments to the Energy Efficiency Rule may be worth considering, significant revisions to the Energy Efficiency Rule are unnecessary and could lead to unintended consequences.
- It is appropriate to treat certain hours of the day as more valuable than others within the design of standard offer or targeted market-transformation programs offered by utilities.
- There has been a shift in the times with tightest grid conditions from the hours of peak load to the hours of peak net load; thus, the definition of peak demand may need to include “critical hours” that include times outside of normal peak periods.
- The Commission should develop recommendations around time and location-based energy efficiency and demand response programs and consider raising demand reduction savings from program activities during off-peak times to count toward goals.
- Deemed savings, rather than automated meter data, should be used to determine program measure savings.
- A variety of metrics for evaluating program reach are available, but any such metrics should only be used as a gauge or measurement tool and should not add yet another distinct goal or requirement that TDUs are expected to meet.
- The Commission should use metrics that influence program participation, program design, customer satisfaction, and delivery equity and that do not create barriers to participation due to metric data collection.
- Consider including rural and other customers in the definition of hard-to-reach customers.
- Consider establishing a state-wide program qualification portal.
- The avoided cost of energy and capacity calculations are sufficient to represent the value of TDU energy efficiency programs and are not in need of significant revision.
- The calculation of avoided capacity cost should be more transparent.

- The Commission should find ways to reduce the year-to-year fluctuation in avoided energy costs and utilize published avoided cost one year out instead of in the upcoming year.
- Performance incentives outlined in PURA and 16 TAC § 25.182 are working as designed, and the utility performance bonus calculation is not in need of significant revision. Bonuses can and do fluctuate up or down from year to year.
- Any adjustments to the performance incentive calculation (if any) should be made in a holistic approach so that goals do not become unachievable for TDUs.
- Consider establishing an upper limit on performance incentives.
- Remove the performance incentive as an operational cost for cost cap compliance.
- Energy efficiency goals are established in PURA § 39.905 and are definitive. Any revisions to demand goal calculations would require a legislative change.
- SB 1699 does not warrant opening up a general rulemaking on the Energy Efficiency Rule.
- Oncor recommends that the Energy Efficiency Division focus on addressing SB 1699 in a rulemaking outside of the Energy Efficiency Rule, increasing measures available to low-income and hard-to-reach customers, evaluating the coordination of federal funds and TDU energy efficiency programs, reviewing matters holistically, and redesigning the EEIP and stakeholder forums to be more collaborative and effective.