



Filing Receipt

Filing Date - 2024-05-23 11:40:50 AM

Control Number - 56517

Item Number - 24

PROJECT NO. 56517

**REVIEW OF ENERGY EFFICIENCY § PUBLIC UTILITY COMMISSION
PLANNING § OF TEXAS**

**JOINT UTILITIES' COMMENTS
ON COMMISSION STAFF'S QUESTIONS FOR COMMENT**

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

AEP Texas Inc., CenterPoint Energy Houston Electric, LLC, El Paso Electric Company, Entergy Texas, Inc., Southwestern Electric Power Company, Southwestern Public Service Company, and Texas-New Mexico Power Company (collectively, "Joint Utilities") respectfully submit these comments to the Public Utility Commission of Texas ("Commission") in response to the Commission Staff's questions for comment on energy efficiency related topics. Joint Utilities appreciate the opportunity to submit these comments and look forward to collaborating with Commission Staff on this project. An executive summary of the substantial recommendations from these comments is attached to the end of this document.

I. Comments on Questions

- 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.***

Joint Utilities are supportive of exploring potential options to modify how peak demand and energy savings are valued across different time segments. It is important to emphasize this would be a fundamental shift in the Commission's overall energy efficiency strategy, effectively transitioning the programs from a proven, cost-effective deemed savings approach to a more intensive data analytics approach. From a practical perspective, such a shift may involve substantial changes to avoided cost assumptions and related utility calculators, the Commission-approved Texas Technical Reference Manual ("TRM"), utility tracking databases, and reporting structures, to name a few, all of which are added administrative costs.

The Commission's current approach of valuing peak demand reduction and energy savings successfully reflects program benefits in a streamlined and effective manner. The TRM outlines the approach used to ensure that energy efficiency program savings are legitimate, transparent, and

reliable for ERCOT and non-ERCOT entities so as to more directly connect peak demand reduction to system-wide peaks and, ultimately, future transmission and distribution infrastructure needs. As part of this, the deemed savings are based on a formal probability-based method to estimate both summer and winter peak demand reduction from all eligible energy-efficiency measures. This approach takes time variability into account by estimating the level of impact during the specific intervals when it is expected the utility system will reach its highest summer and winter demand each year. Additionally, the Commission's EM&V team conducts consumption analyses to compare the state's deemed savings calculation approach per measure with real-time consumption data. If modifications are warranted, the EM&V team recommends adjustments to the TRM and the Utilities adapt their programs accordingly.

The existing proven methodology and process combined with the existing avoided costs, provide assurance that peak demand reduction and energy savings produced through the energy efficiency programs are being adequately captured and valued in a streamlined and cost-effective manner. The Joint Utilities believe this approach is working and would have some concerns as to whether a major shift away from this approach would be worth the added expense and complexity. That stated, the Joint Utilities support exploring reasonable options for how to most appropriately capture and value savings over time, potentially modifying the peak demand definition to include critical hours, expanding the TRM's probability tables, addressing geographic constraints, or other factors as collaboratively identified.

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?*

There are multiple metrics used to track the success of low-income ("LI") and hard-to-reach ("HTR") programs under the current version of 16 TAC § 25.181 ("16 TAC § 25.181" or "EE Rule"). Under the existing rule, each electric utility must achieve no less than 5% of its total demand reduction goal through programs for HTR customers.¹ Additionally, each unbundled utility is required to offer targeted, LI energy efficiency programs and must ensure annual expenditures for those programs are not less than 10% of its energy efficiency budget for every

¹ 16 TAC § 25.181(e)(3)(F): "Savings achieved through programs for hard-to-reach customers shall be no less than 5.0% of the utility's total demand reduction goal."

program year.² Furthermore, the targeted LI program designs are required to incorporate a whole-house assessment to evaluate all potentially eligible energy efficiency measures and are evaluated under a different cost-effectiveness metric, the Savings-to-Investment ratio.³

In addition to these mandated goals and program design specifications, electric utilities are required to certify and track customer program eligibility for both the LI and HTR program designs. In 2021 and 2022, electric utilities collaboratively worked with Commission Staff and its EM&V contractor within the existing EE Rule to modify the Commission forms used to establish income-based eligibility in certain energy-efficiency programs. Specifically, income-qualification opportunities were broadened by expanding the list of federal programs that could be used to establish household income eligibility, simplifying the procedure by which Texas Department of Housing and Community Affairs subrecipient weatherization agencies could attest to a customer's income eligibility, and adding a new means of establishing eligibility based on a customer's location in a Qualifying Census Tract or Block. From 2022-2024, the option of qualifying customers by geographic lookup has become a commonly used methodology across many targeted LI weatherization and HTR programs. The Joint Utilities appreciate the current flexibility the existing EE Rule allows for program design changes like these to be made in an expedient manner. These existing metrics and Commission-approved eligibility requirements have proven successful in ensuring both spending levels and savings goals targeting LI and HTR customers are achieved each year.

Joint Utilities are not in favor of EE Rule modifications that could hinder participation, unnecessarily complicate or restrict implementation strategies, diminish customer satisfaction, or reduce opportunities to improve delivery equity. As part of this, the Joint Utilities are wary of additional LI or HTR targets beyond the existing metrics because goals for a narrow or specific category can have unintended consequences, such as conflicting with other, existing goals, or of complicating the achievement of those goals. Joint Utilities respectfully recommend the Commission refrain from adding additional data tracking metrics or new goals that would further

² 16 TAC § 25.181(p)(1): "Each [unbundled] utility shall ensure that annual expenditures for the targeted low-income energy efficiency program are not less than 10% of the utility's energy efficiency budget for the program year."

³ 16 TAC § 25.181(p)(2): "The utility's targeted low-income program shall incorporate a whole-house assessment that will evaluate all applicable energy efficiency measures for which there are commission-approved deemed savings. The cost-effectiveness of measures eligible to be installed and the overall program shall be evaluated using the Savings-to-Investment ratio (SIR)."

reduce program cost-effectiveness and hinder utility flexibility vital to ensuring overall energy efficiency portfolios meet savings targets and benefit all customers across all customer classes.

Joint Utilities support the consideration of modified success metrics focused on increasing participation opportunities, expanding eligibility requirements, reducing participation barriers, and adding administrative flexibility to improve overall program delivery and increase effectiveness. Joint Utilities are in favor of maintaining the current LI and HTR metrics and flexible income-qualification requirements recently proven to substantially increase ease of participation, assuming related aspects of the EE Rule remain unchanged. Additionally, the group supports increasing the potential participation of “hard-to-reach” and “low-income” customers by expanding the definition of eligibility to encompass both low- and moderate-income customers, perhaps even expanding the existing definition to other categories of “hard-to-reach” customers such as those in sparsely populated areas of the state or other factors as deemed appropriate by the Commission. Joint Utilities remain in support of the Stakeholder Working Group’s areas of agreement, including the fact that broadening the definition of HTR will have a positive impact and allow for a greater number of program opportunities, that any change in the definition of HTR or added definition for LI may impact goals, and that flexibility in the definition is necessary to allow utilities to address its diverse territory needs.

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.***

The avoided cost of capacity and energy should incorporate all reasonable costs required to accurately value program benefits. Additionally, the Joint Utilities support the provisions under 16 TAC § 25.181(d)(2)(B) and § 25.181(d)(3)(B) that allow a utility in an area in which customer choice is not offered to petition the Commission for an alternative calculation of avoided capacity and energy, respectively.

Specific to the avoided cost of capacity, because ERCOT utilities don’t own generating capacity, the avoided capacity costs may be seen more as an overall market benefit. While Joint Utilities support the current definition and approach to determining the avoided cost of capacity,

the group is open to exploring other options that may better capture the full benefits to end-use customers, potentially including costs beyond the generator such as avoided transmission and distribution costs.

While Joint Utilities are supportive of the existing avoided cost of energy calculation framework, which is based on actual ERCOT costs and reflects updated market conditions and weather impacts year-to-year, there are areas for improvement that could address the concerns of large swings in the avoided costs and incorporate administrative efficiencies. One option would be to smooth the potential for extreme increases or decreases in avoided costs from one program year to another. Although Commission Staff petitioned to reduce the 2021 and 2022 avoided cost of energy, addressing volatility in a permanent manner would provide more certainty for program planning purposes. Levelizing the costs by averaging more years than the current “two previous winter and summer peaks” and/or applying the averaged avoided costs to more than a single program year could be reasonable options to reduce volatility and ease existing program design challenges related to incentive levels, cost-effectiveness, and program budgeting. The Joint Utilities welcome the opportunity to work with the Commission to explore workable options for improvement.

The Joint Utilities recommend changes for consideration to 16 TAC § 25.181(d)(2)(A) and § 25.181(d)(3)(A) which detail the timeline by which the avoided cost of capacity and energy, respectively, shall be filed and to which program year those costs shall be applied. The Joint Utilities do not have issue with the filing timeline of November 1 each year. However, the group recommends a language change such that those avoided costs are not applied to the immediate next year, but rather the second year following the calculation. For example, if the avoided costs are filed on November 1, 2024, instead of being applied to the 2025 program year (a mere two months later), they would be applied to the 2026 program year. This change would give each utility more time to modify program designs as required to achieve savings goals, meet spending and cost-effectiveness targets, and more accurately project future program year budgets.

- (2)(A) By November 1 of each year, commission staff shall file the avoided cost of capacity for the ~~upcoming year~~ *program year beginning 14 months from filing...*
- (3)(A) By November 1 of each year, ERCOT shall file the avoided cost of energy for the ~~upcoming year~~ *program year beginning 14 months from filing...*

Alternatively, the Commission could choose to modify the filing deadline and state the avoided costs shall be determined at least 12 months in advance of the applicable program year to better incorporate impacts into the utility planning process. There are multiple options in which improvements could be made specific to this matter and the Joint Utilities look forward to collaborating with the Commission to identify additional strategies for consideration if it so chooses.

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.

The existing utility performance bonuses, defined as an “incentive” under PURA § 39.905, were established to “reward utilities administering programs...that exceed the minimum goals...” To ensure this over-achievement directly benefited customers, the Commission established the incentive calculation under 16 TAC § 25.182(e) in a manner that directly reflects value to the customer. Specifically, because the performance incentive is set as a percentage of net benefits, the utilities are encouraged to maximize kW reduction and kWh savings while reducing overhead costs.

Based on utility performance data since the incentive’s inception, the incentive is working as intended with statewide program year 2022 demand reduction achievements approximately 163% times the total peak demand goals.⁴ It is important to emphasize that total utility savings achievements are based on a myriad of factors beyond the direct demand and energy goals, and there are multiple policy levers available to the Commission to encourage additional savings beyond straightforward demand and energy metrics. The performance incentive is an example of a successful policy lever, effectively increasing utility and statewide savings achievements across the board. Additionally, one area of agreement stemming from the Commission’s Stakeholder Working Group summarized the incentives as “warranted” and “necessary for utilities to achieve...desired outcomes.”⁵

⁴ In 2022, the total statewide demand reduction goal was approximately 225 MW; final verified reduction was reported as 592 MW.

⁵ Stakeholder Working Groups Progress Update to the Energy Efficiency Implementation Project (EEIP), March 28, 2023 (filed under EEIP Docket 38578).

One effect of basing the performance incentive on value to the customer and net benefits is the fact that the avoided cost of capacity and energy have a significant impact on the total calculated incentive payment, all other factors held constant. For example, if a utility ran the exact same programs, installed the exact same high efficiency measures, and spent the exact same amount of money in 2019 and 2020, the performance bonus calculation would have been more than two times higher in 2020 than 2019 due to the avoided cost of energy more than doubling between the two years.⁶ This avoided cost volatility impacts the performance bonus calculation and, because the bonus is considered a program cost under the current EE Rule, impacts a utility's future program budget and savings strategy as both program delivery costs and the bonus all must fall within the Commission's mandated customer cost caps. Joint Utilities would be amenable to exploring an alternative avoided cost design for performance bonus calculations that maintains the intent behind the incentive concept. As with other aspects of the EE Rule, the bonus calculation cannot be adjusted in a vacuum and impacts to other goal metrics and program requirements must be considered within the overall framework of the EE 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 annual energy efficiency goals within existing 16 TAC § 25.181 are defined in PURA § 39.905. To provide context related to the existing goal metrics, the demand reduction and energy goals within existing 16 TAC § 25.181 are designed to increase savings requirements every year for utilities experiencing growth within its service territory. The percentage of peak load metric was established in an attempt to levelize goals equally across all utilities, independent of its size or territory characteristics. Utilities are currently meeting or exceeding statutory goals, even as goals are designed to increase each year for growing utilities and savings opportunities diminish as energy efficiency baselines increase.

The goals for energy savings and demand reduction are well-aligned for each utility within the overall framework of the existing 16 TAC § 25.181 and should remain at or near current levels, assuming other factors within the EE Rule remain unchanged. Any increase to regulatory goals must be weighed against the increased cost to customers and would necessitate higher cost caps to

⁶ In 2019, the Commission approved avoided cost of energy was \$0.050840/kWh while in 2020 it was \$0.113660/kWh using the same calculation methodology as detailed in the existing EE Rule.

accommodate the additional spending required to hit higher targets. Additionally, due to the interdependencies of the EE Rule's components, changes in the goal metrics could also require adjustments to multiple other factors, including a utility's ability to meet LI/HTR targets and cost-effectiveness requirements. Similarly, changes to key program design factors or other modifications, including changes to load management or demand response opportunities, would require a reevaluation of current goals. It is important that the Commission consider all potential consequences, intended and otherwise, and holistically address all aspects of 16 TAC § 25.181 if it chooses to modify any aspect of the energy savings and demand reduction goals.

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.*

The scope of any rulemaking to implement SB 1699 should be limited to only those sections of the existing 16 TAC §25.181 directly impacted by the bill, with due consideration given to interdependencies that exist within the EE Rule. If other modifications were to be considered for the EE rule, they should occur separately.

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

The Joint Utilities appreciate the Commission's desire to prioritize certain activities over the next twelve months. In light of the upcoming legislative session, which could impact aspects of 16 TAC § 25.181, it is important for the Commission to research opportunities to increase potential customer participation pathways, streamline program administrative tasks to reduce costs, and increase utility flexibility to help reach more customers and deliver more savings statewide.

Specifically, Joint Utilities recommend the Commission:

- Investigate how the existing energy efficiency programs can best integrate with the state's expected participation in the federal Home Energy Rebates programs;
- Consider options to streamline regulatory program tracking and reporting requirements to reduce complexity and time requirements while maintaining current transparency and accountability standards (for example, EEPR and EECRF filings could be streamlined, and EECRF transitioned from contested case filings to administrative filings); and

- Identify specific EE Rule changes that would increase program flexibility allowing utilities to better serve all customers across all customer classes and deliver more savings. Potential considerations could include, but are not limited to:
 - To improve portfolio diversity, cost effectiveness should be calculated at the portfolio level; and
 - All utilities should be allowed to offer self-delivered programs without a contested case hearing.

The Joint Utilities are committed to meeting the expectations outlined in PURA and the EE Rule to reduce energy consumption, peak demand, and energy costs. Joint Utilities appreciate the opportunity to submit these comments and look forward to continuing our work with the Commission and its Staff to ensure the state's goals for energy efficiency are met in a successful and cost-effective manner.

Respectfully submitted,

/s/ Leila Melhem

Leila Melhem
State Bar No. 24083492
AMERICAN ELECTRIC POWER SERVICE
CORPORATION
400 West 15th Street, Suite 1520
Austin, Texas 78701
Telephone: (737) 900-8061
Facsimile: (512) 481-4591
Email: lmelhem@aep.com

ON BEHALF OF JOINT UTILITIES

PROJECT NO. 56517

REVIEW OF ENERGY EFFICIENCY
PLANNING

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PUBLIC UTILITY COMMISSION
OF TEXAS

Executive Summary of Joint Utilities' Comments

Joint Utilities appreciate the opportunity to participate in this process and offer three broad recommendations for consideration as the Commission's steps for blueprint implementation evolves specific to reviewing and scoping the existing version of 16 Texas Administrative Code (TAC) §25.181 ("16 TAC §25.181" or "EE Rule").

1. Modifications to the EE Rule must be considered holistically; increasing flexibility and decreasing complexity are keys to improving 16 TAC § 25.181.

Joint Utilities emphasize the importance of balancing multiple goals and program design requirements with the overarching challenge of delivering successful, cost-effective energy efficiency opportunities to Texas end-use electric customers. As noted in the Commission's 2023 Stakeholder Working Groups, "complexity adds barriers and costs; streamlining and flexibility fosters success."⁷ Proliferation of objectives could complicate the achievement of individual goals and create the risk of having some goals very well suited to one utility's system and customer base, but potentially detrimental to program success across other service territories. Additionally, because segments of the EE Rule do not operate in isolation, the interdependencies must be comprehensively considered before changes are made. Flexibility is of the utmost importance and should be emphasized across every aspect of the EE Rule to ensure each individual utility has the latitude needed to meet all goal metrics. Specific to these points, Joint Utilities outline two overarching recommendations for Commission review:

- (a) Consider options to streamline regulatory program tracking and reporting requirements to reduce complexity and time requirements while maintaining current transparency and accountability standards (for example, EEPR and EECRF filings could be streamlined, and EECRF filings transitioned from contested case filings to administrative filings); and
- (b) Identify specific EE Rule changes to increase program flexibility including, but not limited to, conducting cost-effectiveness at the portfolio level, allowing all utilities

⁷ Stakeholder Working Groups Progress Update to the Energy Efficiency Implementation Project (EEIP), March 28, 2023 (filed under EEIP Docket 38578).

to offer self-delivered program without a contested case hearing, and expanding the definition of “hard-to-reach” to encompass low- and moderate- income customers.

2. To the extent possible, SB 1699 should be implemented separately from other potential modifications to the EE Rule.

The scope of any rulemaking to implement SB 1699 should be limited to only those sections of the existing 16 TAC §25.181 directly impacted by the bill, with due consideration given to interdependencies that exist within the EE Rule. If other modifications were to be considered for the EE rule, they should occur separately.

3. The existing energy efficiency programs are consistently successful, by cost-effectively meeting all Commission goal metrics and benefiting end-use electric customers across all eligible customer classes.

The Joint Utilities’ energy efficiency programs consistently meet or exceed the Commission’s mandated peak demand goals, energy savings targets, low-income spending requirements, hard-to-reach savings metrics, program design mandates, and cost-effectiveness standards within the specified customer cost caps, as required under existing 16 TAC §25.181.⁸ At a national level, Texas’ energy efficiency programs rank fifth and seventh in terms of total demand reduction and energy savings,⁹ respectively, while maintaining some of the lowest electricity rates in the country.¹⁰

The Joint Utilities appreciate the collaborative working environment established by the Commission Staff and its Evaluation, Measurement & Verification team. The collective efforts and flexible nature offered under the existing EE Rule helps facilitate positive program design changes allowing for continued success year-over-year, even as annual goals increase for growing utilities and savings opportunities diminish due to increasing baseline standards.

⁸ Please reference the Commission’s Program Year 2022 Statewide Energy Efficiency Portfolio Report (filed under EEIP docket) for a summary of the most recent statewide and utility-level results.

⁹ Total savings include the Joint Utility programs, municipalities, and cooperatives, as defined in U.S. Energy Information Administration, Form EIA-861 - Energy Efficiency, *Annual Electric Power Industry Report 2018 – 2022*.

¹⁰ In 2022, Texas had the 15th lowest electricity rates based on the average retail price (U.S. Energy Information Administration, U.S. Electricity Profile 2022, available at: <https://www.eia.gov/electricity/state/>).