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PROJECT NO. 56966

GOAL FOR REDUCING AVERAGE	§	PUBLIC UTILITY COMMISSION
TOTAL RESIDENTIAL LOAD IN THE	§	
ERCOT REGION	§	OF TEXAS

COMMENTS OF OCTOPUS ENERGY ON PROPOSED RULE

Octopus Energy, REP License #10262, files these Comments regarding proposed amendments to 16 Texas Administrative Code §25.186, relating to *Goal for Average Total Residential Load Reduction*. The proposed amendments are intended to implement Section 5 of SB 1699, enacted by the 88th Legislature. Specifically, the Commission proposes to create a demand response program that may be offered by retail electric providers (REPs) to residential customers using smart devices.

The core elements of the policy set forth in the newly enacted statute are to: 1) establish goals to reduce average total residential load¹ and 2) achieve demand reductions for both summer and winter seasons.² While the proposed rule may “check the boxes” for some of the statutory provisions in SB 1699, it unfortunately misses the target with regard to actually achieving the purpose of reducing average total residential load. Overall, the rule does more to create disincentives for REPs to provide demand response than anything else. Octopus Energy supports a more assertive version of the rule to be adopted by the Commission so that meaningful policy change can be effected in this state by reducing average total residential load to the benefit of retail customers and the ERCOT electricity system. It is with this perspective that Octopus Energy offers several proposed changes to the proposed rule.

¹ PURA 39.919(a)

² PURA 39.919(b)(8)

COMMENTS ON THE PROPOSED RULE LANGUAGE

Subsection (c) Responsive Device Program.

Octopus Energy has several concerns with proposed subsection (c). This subsection allows, but does not require, a REP to offer a DR program to its residential customers. Section 39.919(b)(1) of PURA obligates the Commission to promulgate a rule that must provide for DR participation where reasonably available. This provision should be interpreted in a customer-centric manner to mean that any residential customer in the ERCOT region should have the opportunity to opt into a DR program, if they have installed, or are able to get installed, a smart responsive appliance or device that can be controlled by a REP. By making this entire section completely optional on the part of REPs, the proposed rule renders the statutory provision meaningless. If no REP wants to offer a DR program, then customers would have no DR program available. The plain reading of the statute suggests that such an outcome is not the intent of the legislature. A more reasonable interpretation is that every REP serving residential customers should be required to offer DR programs during winter and summer, with customers having the full autonomy to decide whether to participate in such offerings. Octopus Energy supports REPs having an obligation to offer winter and summer DR programs.

If the Commission is not willing to go so far as to mandate REP DR programs, then an alternative approach would be to incentivize residential DR participation with an incentive payment from ERCOT. As proposed, the optional nature of subsection (c), combined with the reporting obligations set forth in subsection (d), which we discuss in greater detail below, create a disincentive for REPs to provide DR rather than an incentive. Stated differently, the rule would impose a “time tax” in the form of increased reporting requirements on good actors who want to provide DR services to residential customers to the benefit of the grid and no such tax on REPs who choose not to support the grid. Incentives drive behavior, and aligning incentives with creating

more DR, not less, is better-aligned with the presumed intent of the legislature in enacting these statutory provisions. Octopus Energy has previously provided information on a simple to administer, successful program that is operating in the United Kingdom, called the Demand Flexibility Service,³ and we reiterate that such a program could be precisely what is needed in ERCOT to drive additional participation in residential demand response. Customers and REPs are willing to participate in demand response if the incentives are properly aligned.

Paragraph (c)(2)(B) states that a DR program must be capable of responding to an emergency energy alert (EEA) issued by ERCOT. This provision needs substantial clarification. First, the provision states that the program must be capable of responding, but not that it must respond. There is a critical difference between the two. If the Commission intends to require an actual response during an EEA, rather than just the capability, then it should clearly state that. However, it should be noted that there already exists a whole separate service, Emergency Response Service (ERS), that is designed explicitly for this purpose and is compensated by ERCOT through a competitive bidding process pursuant to 16 Texas Admin. Code §25.507. If this new rule would create an obligation for residential customers to respond to an EEA, separate and apart from ERS, then ERCOT would be getting a free option on a reliability tool like ERS without compensating residential customers for their demand reductions, which is wholly inappropriate. Customers should not be obligated to respond to a DR call without being paid to do so. Finally, we note that the rule does not provide any details for how quickly the device must respond, during which level(s) of EEA, or how successful response would be measured.

Paragraph (c)(2)(D) is also problematic. This provision would limit residential customers to being able to participate only in one DR program within the ERCOT region even though

³ See Project No. 55633, Winter Preparedness Work Session: Octopus Energy presentation on UK Demand Flexibility Service (Oct. 20, 2023). Download: https://interchange.puc.texas.gov/Documents/55633_16_1339367.PDF.

multiple devices may participate in different programs with no overlap in obligations or compensation. This provision is unnecessarily limiting to customers, REPs, and ERCOT. A single household could have multiple devices that could serve different purposes. For example, a battery could inject energy or participate in ancillary services as part of an aggregation of DERs in the ADER pilot project, while a heat pump with smart thermostat could provide DR services. While it is appropriate to limit dual participation of the same device for programs that require response during the same time period, it is not reasonable to limit a customer to one program ERCOT-wide when it would be possible to manage a single device participating during different time periods or multiple devices participating in different services. Preventing dual participation is easily solved through software logic. When the goal is to increase participation and promote reliability with “all of the above” solutions, it makes no sense to limit the opportunity for customers to participate in the ADER pilot project or DR programs with unduly restrictive limitations such as this rule provision. We recommend deletion of (c)(2)(D) accordingly.

Subsection (d) Average total residential load reduction goal.

As noted previously, this subsection creates reporting requirements that punish good actors with additional compliance obligations, without any corresponding benefit or incentive to provide DR services. Standing up new capabilities within an organization can be costly, and there is no clear incentive for a retailer to incur these extra costs in the current structure. Octopus Energy has chosen to do so because this is a vision we share with the Commission, but this may very well be unique to our organization given the limited participation elsewhere. This lack of incentive structure while increasing reporting obligations creates a disincentive rather than an incentive to deepen DR participation.

Paragraph (d)(1)(B) is unnecessarily intrusive into a REP's competitively sensitive business activities and burdensome to report. Smaller and innovative REPs do not likely have the staffing to devote to this level of detailed reporting and may choose not to provide DR programs to avoid additional compliance obligations. Reporting should not be required for every single time a REP calls DR, 24 hours a day, 7-days a week, but that is what this rule would require. There may be reasons that a REP wants to call for DR from one or more customers that have nothing to do with maintaining reliability during ERCOT peak periods and EEAs. REPs should not be obligated to report to ERCOT for any DR activity beyond what is necessary to determine whether the load reduction goal is being met as some of those other events may be part of our proprietary market research and development efforts. Therefore, ERCOT should identify the time periods of interest and REPs should report only on those specific time periods.

Regarding the actual goal reduction of 25% as set forth in (d)(3), this is a reasonable goal for summer, but this same goal will not work for the winter. The discrepancy between winter and summer is due to the nature of the load during those seasons. Summer load is more homogeneous, with approximately 45% of peak load attributable to residential air conditioning and nearly 100% of customers have a similar contribution to this peak. In winter, this is not currently the case. In winter, not every customer has electric heat and thus each customer contributes to grid flexibility potential differently. Those same customers that have electric air conditioning in the summer cannot be relied upon for reductions in the winter if they have natural gas furnaces. However, customers that have electric heat can provide DR in both winter and summer. Through market research and development, Octopus Energy has found that the ratio of winter peak demand to summer peak demand residential customers can range from 75% to 400%. That means the winter peak for some customers is 25% less than that same customer's summer peak (likely someone who

has gas heating). And for others, their winter peak usage can be up to four times more than their summer peak (such as in the extreme case of someone who travels for most of the summer season and has electric heat). For these reasons, we recommend that the Commission consider different goals for winter and summer to accommodate for seasonal load differences due to heating fuel types.

Further, Octopus Energy acknowledges the deep investigation and reporting that has been done to identify issues that led to the disastrous outcomes from Winter Storm Uri, one of which was a natural gas pressure issue. Since low pressure networks take priority over the high pressure gas networks that supply ERCOT's highly efficient combined cycle natural gas plants, Octopus Energy recommends that the Commission take the opportunity while it is focusing on residential demand response issues to coordinate with the Railroad Commission (RRC) to see if there is a potential for an integrated approach to energy demand response in winter months that takes advantage of the new authority the RRC received last session pursuant to HB 2263 to develop natural gas energy conservation programs to avoid blackouts due to overuse of natural gas during extreme winter events.⁴ In the case of an extreme Uri-like emergency, it is important to reduce electric consumption as well as gas usage at the household level, the latter of which is to ensure the high-pressure gas networks have ample supply and no fuel issues. Because the vast majority of residential natural gas consumption in the winter is driven by the home thermostat, which is an asset that a REP naturally can flex for summer air conditioning as well as winter heating, Octopus Energy recommends consideration of this dual-agency approach to create a new emergency DR product that incentivizes heating load flexibility regardless of fuel type.

⁴ See Utilities Code Chapter 104, Subchapter J, §§104.401 et seq.

Finally, we note that ERCOT's load profile data is often mislabeled with regards to fuel type for winter heat, yet DR capabilities vary dramatically based on heating technology. Octopus Energy can observe from operational data that the flexibility of a customer frequently does not match up with the load profiles on record at ERCOT. Process changes are needed to ensure that the load profile data accurately represent the type of load present at a customer's premise.

Subsection (f) Funding

Octopus Energy supports REP access to funding for incentives to promote adoption of responsive devices by residential customers of the REPs. However, additional clarity is needed regarding the amount of funding available. If the Commission is intending to state that a utility may allocate up to 10 percent of its energy efficiency budget for the purpose of funding delivery of responsive devices to REP customers, this should be more clearly stated, as the existing language is awkward and confusing.

We note again, though, that the remainder of the rule creates other disincentives for REPs to implement or expand existing DR programs due to additional compliance obligations that would be triggered by this rule. Incentive payments are needed to justify customers being asked to respond, especially during time periods of reliability concern to ERCOT. Customers should rightly object to being curtailed during ERCOT EEAs without compensation. Any other large commercial or industrial customer would reject this, and residential customers should not be treated any differently. We therefore reiterate our recommendation to adopt a program with a price signal, such as the UK's Demand Flexibility Service, to encourage response during the appropriate time periods.

CONSIDERATION OF POTENTIAL RECOMMENDATIONS TO THE LEGISLATURE

Following Winter Storm Uri, legislative changes were enacted in response to one specific REP's business model that allowed for full indexed pricing for residential customers. The effect of the legislation has been to completely eliminate the best incentive available to promote residential demand response: wholesale price transparency. Octopus Energy recommends that the Commission consider including in its 2025 Biennial Agency Report to the Legislature a discussion of the merits of modifying state policy on this topic to incentivize residential demand response. It is possible, as Octopus Energy successfully demonstrated during the 2021 winter storm crisis, to provide an indexed pricing product with customer protection "guard rails" to prevent runaway pricing if a situation like Winter Storm Uri were ever to arise again. For example, a price ceiling can be imposed, so that if wholesale prices reach a certain level, the residential customer is not exposed to any pricing above such ceiling. Another approach would be to allow participation in indexed products only for customers with batteries, flexible loads, or on-site generation.

CONCLUSION

Octopus Energy appreciates this opportunity to provide input on the proposed rule amendments. This rulemaking provides an opportunity to expand demand response opportunities for residential customers. We ask that the Commission adopt a rule consistent with our recommendations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Jewell", with a long horizontal flourish extending to the right.

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GOAL FOR REDUCING AVERAGE § PUBLIC UTILITY COMMISSION
TOTAL RESIDENTIAL LOAD IN THE §
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COMMENTS OF OCTOPUS ENERGY ON PROPOSED RULE
EXECUTIVE SUMMARY

- Octopus Energy supports REPs having an obligation to offer winter and summer DR programs. An alternative approach would be to incentivize residential DR participation with an incentive payment from ERCOT.
- Octopus Energy recommends that the UK’s Demand Flexibility Service be considered for adoption in ERCOT to drive additional participation in residential demand response.
- Paragraph (c)(2)(B) needs clarification as to whether an actual response to an EEA, rather than just the capability, is required. ERS is already designed explicitly for this purpose and is compensated by ERCOT through a competitive bidding process pursuant to PUCT Subst. R 25.507.
- Paragraph (c)(2)(D) should be deleted. This provision would limit residential customers to being able to participate only in one DR program within the ERCOT region even though multiple devices at a customer’s home may participate in different programs. Preventing double-enrollment is easily solved through software logic.
- Subsection (d) creates reporting requirements that punish good actors with additional compliance obligations without any corresponding benefit or incentive to provide DR services. Paragraph (d)(1)(B) is unnecessarily intrusive into a REP’s competitively sensitive business activities and burdensome to report. REPs should not have to report every DR event, only those at key times identified by ERCOT.
- Regarding the actual goal reduction of 25% as set forth in (d)(3), this is a reasonable goal for summer but will be a challenge to meet in the winter, as summer load is more homogeneous (electric AC does not necessarily equal electric heat); therefore, we recommend that the Commission consider different goals for winter and summer. Additionally, Octopus Energy recommends that the Commission take the opportunity while it is focusing on residential demand response issues to coordinate with the RRC to see if there is a potential for an integrated approach to energy demand response in winter months that takes advantage of the new authority the RRC received last session pursuant to HB 2263 to develop natural gas energy conservation programs to avoid blackouts due to overuse of natural gas during extreme winter events. Because the vast majority of residential natural gas consumption in the winter is driven by the home thermostat, which is an asset that a REP naturally can flex for summer air conditioning as well as winter heating, Octopus Energy recommends consideration of this dual-agency approach to create a new emergency DR product that incentivizes heating load flexibility regardless of fuel type.
- Regarding subsection (f), additional clarity is needed regarding the amount of funding available.
- Octopus Energy recommends that the Commission consider including in its 2025 Biennial Agency Report to the Legislature a discussion of the merits of modifying state policy on indexed pricing to incentivize residential demand response. It is possible, as Octopus Energy successfully demonstrated during the 2021 winter storm crisis, to provide an indexed pricing product with customer protection “guard rails.”