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PROJECT NO. 56966

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

**OFFICE OF PUBLIC UTILITY COUNSEL’S INITIAL COMMENTS ON
COMMISSION STAFF’S PROPOSAL FOR PUBLICATION OF NEW
16 TEXAS ADMINISTRATIVE CODE (TAC) §25.186 RELATING TO GOAL FOR
AVERAGE TOTAL RESIDENTIAL LOAD REDUCTION IN THE ERCOT REGION**

The Office of Public Utility Counsel (“OPUC”), representing the interests of residential and small commercial consumers in Texas, respectfully submits these initial comments on Staff (“Staff”) of the Public Utility Commission of Texas’s (“Commission”) proposal for publication of a new 16 Texas Administrative Code (“TAC”) § 25.186 relating to Goal for Average Total Residential Load Reduction in ERCOT region. The proposal for publication (“PFP”) requests public comment by September 27, 2024.¹ Therefore, these comments are timely filed.

I. INTRODUCTION

On August 23, 2024, Staff filed a memorandum including a PFP which proposes new 16 TAC § 25.186 relating to Goal for Average Total Residential Load Reduction in the Electric Reliability Council of Texas (“ERCOT”) region. The purpose of the proposed rule is to implement new Public Utility Regulatory Act (“PURA”) § 39.919 in accordance with Senate Bill 1699, Section 5 enacted by the 88th Legislature (Regular Session). Specifically, Staff’s proposal will create an average total residential load reduction goal and establish a demand response program that may be offered by retail electric providers (“REPs”) to residential customers.

¹ Proposal for Publication of New §25.186 at 1 (Aug. 29, 2024) (“PFP”).

Under the proposed rule, a REP may offer a responsive device program that offers an incentive to residential customers with smart responsive appliances or devices. A REP may also offer a responsive device program by contracting with a demand response provider. Responsive device programs will be designed to reduce electricity consumption during ERCOT peak demand periods and must be capable of responding to emergency alerts. The programs also must not adversely impact the needs of a critical care residential customers or chronic condition residential customers. In addition, there are reporting requirements by REPs to ERCOT and by ERCOT to the Commission. A REP may receive funding for a responsive device program through an energy efficiency incentive program established under 16 TAC § 25.181, and a transmission and distribution utility (“TDU”) required to provide an energy efficiency incentive program under PURA § 39.905 may use up to ten percent of the budgeted spending for responsive device programs offered by a REP under the proposed rule.

II. COMMENTS

OPUC generally supports the responsive device programs the proposed rule will enable. Participating customers will receive reduced bills or other incentives, and even those who do not participate will benefit from stability and reliability that load reductions can bring to the grid. The proposed rule will allow REPs to offer a variety of demand response programs to help reduce residential load, especially during peak demand periods. Although some customers can participate in demand response programs under various service plans that are currently available in the ERCOT region,² the proposed rule would drastically expand access for residential customers. However, not all residential customers will be able to take advantage of these programs.

² See 2023 Annual Report of Demand Response in the ERCOT Region at 13-14 (Jan. 25, 2024). Available at <https://www.ercot.com/mp/data-products/data-product-details?id=NP3-110>.

Because smart appliances need an internet connection to operate, the Commission should consider how access to the internet or smart devices may present participation issues for low to moderate-income customers. The Commission should also consider how these customers may otherwise participate so as to realize associated cost savings. One potential avenue to include more low-income residential customers in demand response programs is to encourage customers to engage in “incentive stacking.” Incentive stacking combines multiple incentive programs to maximize energy savings and monetary earnings. REPs should work to inform customers, especially those without access to smart devices, about incentives like federal tax credits, energy savings, rate reductions, and bill rebates where available.

OPUC believes that consumer education is also vital to the success of potential demand response programs. If the proposed rule is properly implemented with a concomitant educational component, residential customers will be in a better position to participate in demand response programs with confidence and security. It is extremely important that customers understand the terms of the agreements and of any commitments that they make when signing up with a demand response provider. As such, customers should have sufficient information to determine whether they would benefit from participation. Issues such as the terms of the agreement, the ownership of any necessary equipment, and cancellation procedures must be made clear to the customer. Most important, however, is ensuring that the customer understands the pricing model and/or any changes in behavior that will be expected of them. Accordingly, OPUC recommends the Commission review the demand response program survey to determine whether customers understand the program and identify areas for continuing consumer education.

A. Proposed 16 TAC § 25.186(c)

OPUC generally supports demand response programs such as these. However, OPUC does not support expanding transmission and distribution service providers' ("TDSPs") existing energy efficiency programs beyond that which is statutorily prescribed. OPUC does not believe TDSPs' existing energy efficiency programs are economical and would, therefore, oppose expanding them beyond the ten-percent budget threshold as a method to facilitate more demand response.

As the demand response market continues to develop, OPUC would like for customers who participate to see tangible financial benefits through either direct payments or lower retail rates. Residential customers that participate and shed load or adjust their daily schedule to support the grid, should be adequately rewarded for their participation. As explained in an International Energy Agency ("IEA") study, existing data demonstrates that "residential customers will respond to relatively small changes in price" ³ OPUC recommends that some price reduction or other financial benefit must be provided to participating customers through the program incentives under the proposed rule.

The proposed rule also simply states that a REP may provide "an incentive to customers" for participating in a demand response program. REPs are given immense flexibility to develop innovative incentive structures, but they are not given much guidance. The Commission should consider offering examples of these incentives. REPs could, for instance, be encouraged to offer dynamic retail rate structures to their customers participating in a demand response program. One example is Critical Peak Rebate pricing, which would provide bill credits to customers who reduce their usage below a baseline quantity during periods when the wholesale market price exceeds a

³ Douglas Cooke, *Empowering Customer Choice in Electric Markets*, International Energy Agency (IEA), October 2011, at 50. Available at: <https://iea.blob.core.windows.net/assets/b9580d58-70dc-4b11-8fa0-8935fe77511f/EmpoweringCustomerChoiceinElectricityMarkets.pdf>.

threshold level. REPs should consider both performance-based incentives, requiring measurement and verification for payment, and participation-based incentives, where the utility controls the equipment. Financial penalties for underperformance may apply in these programs. A wide range of incentives are available to REPs to use, but the Commission is best positioned to evaluate the effectiveness of various incentive structures and set policy based on that information. Therefore, OPUC recommends that the Commission publish additional guidance to REPs on the variety of potential incentives and their effectiveness.

B. Proposed 16 TAC § 25.186(d)

Staff has proposed an average total residential load reduction goal of 0.25. It is OPUC's understanding, based on conversations with Staff, that the goal of 0.25 is tied to a peak residential demand of 4 kilowatts ("kW") and a 1 kW reduction achieved using smart appliances. Assuming an average home reduces their demand by 1 kW using smart appliances, and the average peak residential demand for one residence in ERCOT is 4 kW, applying the load reduction formula provided in PURA § 39.919(c) yields: 1 kW out of every 4 kW, or $1/4 = 0.25$ (a load reduction factor of 25%). OPUC is a bit perplexed by this number and the source of the data Staff may have utilized to reach it. Specifying a 25% reduction in consumption using smart appliances without proper data to support that target number would be imprecise. Therefore, OPUC recommends soliciting more information from ERCOT, including the entity's understanding of the load reduction goal and how it plans to implement the goal, and adjusting the goal if necessary.

Furthermore, ERCOT must be proactive to facilitate the effective and efficient implementation of new rules. This is particularly true with demand response programs, especially those that impact residential consumers. ERCOT may help model prices in certain conditions as necessary, and it may publish the relevant modeling assumptions and outputs for price and

incentives for demand response to ensure stakeholder confidence before implementing them. Accordingly, OPUC also recommends that the inputs/assumptions and the outputs be made available for stakeholder review to ensure that those analyses are sound.

Lastly, with respect to aggregated distributed energy resources (“ADER”), the benefits from ADER are great. In furtherance of the legislative intent behind this rulemaking, OPUC suggests that if there are any barriers for ADER pilots, those need to be addressed soon to fully adopt and generate more megawatts to the ERCOT grid, which will help protect the ERCOT grid during peak hours.

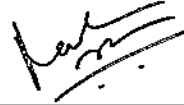
III. CONCLUSION

OPUC reiterates its support of the further development of market-driven demand response for the residential and small commercial customer segments, with the following caveats: (a) customers must be adequately protected; (b) there must be sufficient information for customers to make informed decisions as to participation; and (c) customers should receive a financial benefit from participation in the demand response programs. OPUC appreciates the opportunity to provide these comments and looks forward to working with Staff and other stakeholders on this project.

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EXECUTIVE SUMMARY

OPUC offers the following comments and recommendations:

1. Additional consideration should be given to how low-income customers, customers in critical care and elder care, or others without reliable home internet may benefit from the potential savings. REPs should work to inform customers, especially those without access to smart devices, about other incentives like federal tax credits, energy savings, rate reductions, and bill rebates where available.
2. The Commission should emphasize the education of stakeholders, the public, Staff, and other interested parties with regard to demand response programs, including reviewing the demand response program survey to determine whether customers understand the program and identifying areas for continuing consumer education.
3. Some price reduction or other financial benefit must be provided to participating customers through the program incentives under the proposed rule. Additional consideration should also be given to how ERCOT may ensure residential customers are paid for demand response participation during EEAs.
4. OPUC recommends that the Commission publish additional guidance to REPs on the variety of potential incentives and their effectiveness.
5. OPUC generally supports demand response programs such as these. However, OPUC does not support expanding TDSPs' existing energy efficiency programs beyond the statutorily prescribed threshold as a method to facilitate more demand response. Energy efficiency programs and demand response programs are two completely separate types of programs and should be kept separate.
6. ERCOT should publish the relevant modeling assumptions and outputs for price and incentives for demand response to ensure stakeholder confidence before implementing them.