



## **Filing Receipt**

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**PROJECT NO. 56966**

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

**ONCOR ELECTRIC DELIVERY COMPANY LLC'S INITIAL COMMENTS ON THE  
PROPOSAL FOR PUBLICATION OF NEW 16 TAC § 25.186**

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

Oncor Electric Delivery Company LLC (“Oncor”) timely files these initial comments on the Proposal for Publication (“PFP”) of new 16 Tex. Admin. Code (“TAC”) § 25.186, relating to the Goal for Average Total Residential Load Reduction, approved by the Public Utility Commission of Texas (“Commission”) on August 29, 2024, in this Project. Oncor believes proposed § 25.186 could provide a useful tool for encouraging demand response participation by residential customers and intends to fund such programs as contemplated in the PFP. Oncor hopes that its comments and suggested edits will provide helpful feedback from the perspective of a transmission and distribution utility (“TDU”) and will help inform the contents of a Proposal for Adoption of this amendment. As discussed below, Oncor’s recommendations are limited to the language in subsection (f) of this proposed rule.

**I. SPECIFIC COMMENTS ON PROPOSED 16 TAC § 25.186**

***Subsection (f)***

First, subsection (f) begins by stating that a retail electric provider (“REP”) may receive funding for responsive device programs through an incentive program established under 16 TAC § 25.181 if the program complies with requirements related to “the evaluation, measurement, and verification of demand response programs.” Based on that language, Oncor’s understanding is that such programs would *not* need to meet the cost-effectiveness standard set forth in § 25.181(d). Oncor agrees that it would not be appropriate to require demand response programs offered under § 25.186 to also satisfy the

cost-effectiveness standard in § 25.181(d) before a TDU can fund it, because TDUs will not have access to the performance data (given that subsection (d)(1) instructs the REPs to send information on the customers enrolled in demand response programs and the data on demand response events only to ERCOT, who will then in turn provide it to Commission Staff). Without the performance data, the TDUs will not be able to conduct a cost-effectiveness test. Thus, Oncor stresses that the qualifications of programs to receive funding under subsection (f) should remain limited to compliance with only the evaluation, measurement, and verification requirements under § 25.181.

Second, Oncor has two concerns with the last sentence in subsection (f). This sentence should specify that a TDU may use up to “10 percent of its demand response budget” (rather than “10 percent of the budgeted spending”) for programs under this proposed rule. Oncor’s proposed revision would make the rule consistent with the language used in PURA<sup>1</sup> § 39.919(d) as enacted by Senate Bill 1699,<sup>2</sup> which states, in relevant part, that the TDU may use up to “10 percent of the budgeted spending *for demand response programs...*” (emphasis added). Additionally, the last sentence of § 25.186(f) should refer to “demand response programs” rather than “responsive device programs,” in keeping with the instruction in PURA § 39.919 to provide for programs that provide demand response participation to residential customers where available, and with the Commission’s instruction to electric utilities in 16 TAC § 25.181 to conduct programs to encourage and facilitate participation in the delivery of efficiency and “demand response programs.”<sup>3</sup> These changes, which are shown below, will conform the proposed rule to the purpose of PURA § 39.919(d):

A transmission and distribution utility required to provide and energy efficiency incentive program under PURA §39.905 may use up to 10 percent of ~~the budgeted spending~~ its demand response budget for ~~responsive device~~ demand response programs offered

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

<sup>2</sup> See Acts 2023, 88th Leg., R.S., S.B. 1699, § 5 (codified at PURA § 39.919).

<sup>3</sup> See 16 TAC § 25.181(g)(5) and (r).

by a REP under subsection (c) of this section.

Third, Oncor recommends that the rule provide clarity and details on how TDUs are to fund demand response programs offered by a REP, as contemplated in 16 TAC § 25.186(f). Specifically, the rule should explain: (i) how the funding would be accomplished; (ii) how under-recovery and over-recovery would be addressed; and (iii) whether TDUs are permitted to claim savings on the particular programs contemplated in this proposed rule or, alternatively, if they are to use it as a pass-through, meaning that the funds would be provided to REPs without any claimed savings toward TDU goals. Oncor urges the Commission to permit TDUs to claim savings on the funding of the programs contemplated by this proposed rule. Because TDUs will not have access to or visibility into the data showing actual demand response performance (i.e., how much in savings are actually being achieved through those demand response programs), any such savings would not need to impact a TDU's performance bonus under 16 TAC § 25.182(e). However, a TDU could still be permitted to claim savings based on the particular dollar amount of these programs that it funded to demonstrate compliance with the goals in § 25.181, and any funding on programs under § 25.186 during a program year could then be included in the calculation of a TDU's Energy Efficiency Cost Recovery Factor ("EECRF") under/over-collection under § 25.182(d). These claimed savings could then be reported as a separate, standalone residential customer program in a TDU's annual energy efficiency plan and report and EECRF filings submitted in accordance with 16 TAC §§ 25.181 and 25.183, which would provide transparency for the Commission as to how much money TDUs are spending on these particular programs. If it so chooses, the Commission could then evaluate to what extent the demand response programs offered under 16 TAC § 25.186 are helping to achieve the energy efficiency goals in § 25.181.

***Effective Date***

Oncor's final recommendation is that the Commission should specify: (i) an effective date for this new rule of January 1, 2025; and (ii) the that TDU EECRF

reporting to reflect funding on demand response programs offered under this rule should commence in calendar year 2026. Under 16 TAC §§ 25.182(d)(1)(A) and (d)(8), EECRF proceedings involve a review of the preceding year's over- or under-recovery and a forecasted look ahead to the approaching calendar year, but they do not involve a review of the current year in which the EECRF filing is made. By delaying the effective date of this rule until the start of the coming calendar year, TDUs' funding of programs contemplated by this rule can begin commensurate with an EECRF review period (i.e., a calendar year). By then setting the TDUs' obligation to reflect funding on programs offered under this rule to begin in 2026, the Commission will have the benefit of the full 2025 calendar year's worth of funding on these programs to assess during the 2026 EECRF proceedings.

## II. CONCLUSION

Oncor appreciates the opportunity to submit suggested edits and comments on the PFP in this Project. Oncor respectfully requests the Staff's and the Commission's full consideration of the comments set forth above. Should the Commission decide that it will consider reply comments, then Oncor respectfully reserves its opportunity to further comment on the PFP through reply comments.

Respectfully submitted,

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## **ONCOR ELECTRIC DELIVERY COMPANY LLC'S EXECUTIVE SUMMARY**

- Oncor agrees with the language in subsection (f) that permits REPs to receive funding for responsive device programs to the extent the program complies with requirements related to “the evaluation, measurement, and verification of demand response programs.” It would not be appropriate to require demand response programs offered under § 25.186 to also satisfy the cost-effectiveness standard in § 25.181(d) before a TDU can fund it, because TDUs will not have access to the performance data for these programs.
- The last sentence in subsection (f) should specify that a TDU may use up to “10 percent of its demand response budget” (rather than “10 percent of the budgeted spending”) for programs under this proposed rule. This revised wording would align with the language in PURA § 39.919(d).
- The last sentence of § 25.186(f) should refer to “demand response programs” rather than “responsive device programs.” This would be more consistent with the language in PURA § 39.919 and 16 TAC § 25.181.
- The rule should provide clarity and details on: (i) how the funding would be accomplished; (ii) how under-recovery and over-recovery would be addressed; and (iii) whether TDUs are permitted to claim savings on the particular programs contemplated in this proposed rule or, alternatively, if they are to use it as a pass-through to REPs.
- Oncor urges the Commission to permit the TDUs to claim savings on the funding of the programs contemplated by this proposed rule. Any such savings would not need to impact the TDU’s performance bonus, but any funding on programs under § 25.186 during a program year could be included in the calculation of a TDU’s EECRF under/over-collection under § 25.182(d). These claimed savings could then be reported as a separate, standalone residential customer program in a TDU’s annual energy efficiency plan and report and EECRF filings.
- The rule should have an effective date of January 1, 2025, and TDU EECRF reporting to reflect funding on demand response programs offered under this rule should commence in 2026.