Control Number: 56966

Item Number: 24

PROJECT NO. 56966

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

ORDER ADOPTING NEW 16 TAC §25.186

The Public Utility Commission of Texas (commission) adopts new 16 Texas Administrative Code (TAC) §25.186, relating to Goal for Average Total Residential Load Reduction. The commission adopts the rule with changes to the proposed text as published in the September 13, 2024 issue of the *Texas Register* (49 TexReg 7175). New 16 TAC §25.186 implements Public Utility Regulatory Act (PURA) §39.919, as enacted by Senate Bill (SB) 1699, Section 5 by the 88th Texas Legislature, Regular Session. The new rule creates an average total residential load reduction goal for the ERCOT power region that focuses on reducing electricity consumption during ERCOT peak demand periods. These reductions will be achieved through responsive device programs that may be offered by retail electric providers (REPs) to residential customers that utilize smart responsive appliances or devices.

The commission received comments on the proposed rule from AARP Texas (AARP); AEP Texas, Inc. (AEP); Base Texas REP, LLC (Base Power); CenterPoint Energy Houston Electric, LLC (CenterPoint); Electric Reliability Council of Texas, Inc. (ERCOT); the Environmental Defense Fund & Alison Silverstein Consulting (EDF & ASC); Houston Advanced Research Center (HARC); Octopus Energy LLC (Octopus); the Office of Public Utility Counsel (OPUC); OhmConnect Energy (OhmConnect); Oncor Electric Delivery Company, Inc (Oncor); the Sierra Club; the South Central Partnership for Energy Efficiency as a Resource (SPEER); Tesla, Inc.

(Tesla); the Texas Advanced Energy Business Alliance (TAEBA); and the Texas Energy Association for Marketers (TEAM and the Alliance for Retail Markets (ARM) (filing collectively as the REP Coalition).

General Comments

HARC, Sierra Club, SPEER, and TAEBA recommended the term "responsive device program" be replaced with the term "demand response program" throughout the proposed rule to conform with PURA §39.919. HARC and Sierra Club explained that such a change would provide flexibility to REPs when developing demand response programs. Sierra Club remarked that while demand response program will utilize responsive devices, some programs rely more on customer reactions and behavior rather than taking control of the devices. Therefore, the rule should be revised to encourage several types of demand response programs. SPEER and TAEBA explained that such a change will enable REPs greater flexibility in designing a variety of demand response offerings for residential customers that utilize different smart technologies and devices.

Commission Response

The commission disagrees with commenters and declines to implement the proposed changes. While commenters are correct that demand response programs are not limited to responsive device programs, PURA §39.919 places a clear emphasis on that subcategory of programs. Specifically, PURA §39.919(b)(6) requires the commission to facilitate the *widespread deployment* of smart responsive appliances and devices in a manner that is compatible with a REP's demand response product or plan. Moreover, PURA §39.919(c) requires both components of the ratio, the amount of load reduced at peak demand and the

total amount of demand at that specific period, to be derived from all residential customers *that have responsive appliances or devices at their premises* that reduce electric consumption. Other provisions, such as PURA §39.919(b)(2) and (3) also require the load reduction program implemented by commission rule promote smart metering technology and be capable of responding to an Energy Emergency Alert (EEA) issued by ERCOT, respectively. These requirements also evince a legislative intent that the load reduction program be oriented around the recording of energy consumption through smart meters, including the communication of such information (i.e., telemetry) and the remote adjustment of electricity usage in response under certain conditions or events.

However, the rule does not require a REP to brand its program as a responsive device program, prohibit a REP from developing or offering alternative demand response programs that do not utilize responsive programs or devices, or incorporate additional demand response elements into its responsive device program. However, by statute, progress towards the goal itself must be calculated based on customers with responsive appliances or devices.

Sierra Club generally requested clarification on what "demand response programs that utilize [smart responsive appliances or] devices" means as referred to in the preamble to the proposed rule.

Commission Response

In response to Sierra Club's request for clarification, the term "smart responsive appliance or device" is defined under §25.186(b). In the context of the programs offered by REPs under the proposed rule, a REP, aggregator, or third-party remotely controls a responsive appliance or device in accordance with the offered program that the residential customer has agreed to. Additionally, any ambiguity associated with the customer incentive structure is dependent on how a REP develops its program and consequently utilizes the relevant responsive appliances or devices.

OhmConnect recommended that any qualifying REP program should be eligible to participate in residential demand response and be compensated solely based on actual load reduction delivered.

Commission Response

The commission declines to modify the rule to require compensation be based solely on actual load reduction delivered. The statute only authorizes an eligible REP to *receive* funding from a Transmission and Distribution Utility (TDU) under PURA §39.919(b)(9) and correspondingly prescribes the manner in which a TDU *may* use up to 10% of its budgeted spending for demand response programs under PURA §39.919(c). The statute does not prescribe the manner in which customers must be compensated or what other revenue streams the REP may be able to utilize to monetize a responsive device program. The commission notes the calculation of the goal is based on actual load reductions, but REPs are not required to design their responsive device programs or broader demand response programs solely towards achieving that goal.

OhmConnect recommended the commission adopt a "stretch goal" for demand response programs and a roadmap to meet that goal. OhmConnect generally recommended the commission consult with ERCOT and generation resources to establish a percent or megawatt (MW) reduction goal to reach by 2030, provide funding to demand response outside of energy efficiency programs, limit funding or incentives only to REPs that meet the commission's requirements, and use initial energy efficiency funds to promote the enrollment of new customers in demand response programs.

Commission Response

The commission declines to implement OhmConnect's recommendations because they are beyond the scope of this rulemaking. PURA §39.919 does not provide for the adoption of a stretch goal, a roadmap to meet the goal, or additional funding outside of energy efficiency programs to meet the goal. Moreover, OhmConnect's recommendation to establish a 2030 reduction goal is unnecessary because the current rulemaking allows for the commission to update the goal every two years. The commission may consider demand response more broadly in future proceedings.

OhmConnect recommended the commission either direct ERCOT to expand the "weather sensitive loads" component of its Emergency Response Service (ERS) that accounts for seasonally driven loads such as air conditioning or split the weather sensitive load component of ERS into its own ancillary service with independent funding.

Commission Response

The commission declines to implement the recommended change because it is beyond the scope of this rulemaking. The proposed rule is narrowly focused on implementing PURA §39.919, which requires the commission to establish a residential load reduction goal for the ERCOT power region.

Octopus recommended the commission coordinate with the Railroad Commission (RRC) to develop an inter-agency effort to increase energy demand response during the winter season that capitalizes on the RRC's new authority from House Bill 2263 (87th Regular Session) to develop natural gas energy conservation programs for the purpose of avoiding blackouts during extreme winter weather events. Octopus maintained that because the "vast majority of residential natural gas consumption in the winter is driven by the home thermostat" the commission should work with the RRC to create a new emergency demand response product "that incentivizes heating load flexibility regardless of fuel type."

Commission Response

The commission declines to implement the recommended change because it is beyond the scope of this rulemaking. Neither PURA §39.919 nor the proposed rule contemplate the creation of a new emergency demand response product or inter-agency program. Furthermore, PURA §39.919(c) states that the ratio for the load reduction goal is calculated for customers with responsive devices that reduce electrical consumption, not gas consumption.

Octopus recommended ERCOT undertake process changes to ensure load profile data accurately represents the load type present at a customer's premises. Octopus explained that winter heating fuel type is frequently misrepresented in ERCOT's load profile data, despite marked differences in demand response capabilities depending on the heating technology used.

Commission Response

ERCOT's load profiling process is beyond the scope of this rulemaking. Accordingly, the commission declines to modify the rule in response to this comment.

Octopus recommended the commission include an analysis of the benefits of modifying state policy to reintroduce full indexed pricing for residential customers for purposes of incentivizing demand response in its 2025 Biennial Agency Report to the Legislature (2025 Agency Report). Octopus remarked that such an indexed pricing product with adequate customer safeguards, such as a price ceiling, would prevent situations that led to the ban of such products in the first place. Octopus alternatively recommended the commission include a similar recommendation in the 2025 Agency Report that would permit indexed products only for customers with "batteries, flexible loads, or on-site generation."

Commission Response

The commission declines to modify the rule in response to this comment, because no modification is requested. The contents of the 2025 Agency Report are beyond the scope of this rulemaking project.

OPUC recommended the commission review the survey of demand response programs to "determine whether customers understand the program and identify areas for continuing consumer education." OPUC generally recommended customers be provided with sufficient information to decide whether participation in a demand response program would be beneficial. OPUC emphasized the importance of customer education and awareness to the success of demand response programs, such as the terms of the agreement and resulting commitments when enrolling. OPUC also highlighted issues associated with ownership of essential equipment and cancellation procedures should be clearly outlined to customers. OPUC primarily noted the importance of customers understanding the pricing model of demand response program and any associated behavioral changes that are expected.

Commission Response

The commission agrees with OPUC on the importance of customer education and awareness for the success of any customer-focused program, including demand response programs. The commission makes no revisions to the proposed rule in response to this comment, because no revisions are requested.

EDF and ASC recommended the commission expand energy efficiency programs and budgets to ensure energy efficiency and demand response work in tandem to improve reliability, resilience and affordability. EDF and ASC emphasized that residential demand response can be complemented and expanded by "aggressive peak-oriented energy efficiency programs such as heat pumps and attic insulation" which are cost-effective and provide actual and consistent benefits

for long periods of time. OPUC opposed expanding the TDU energy efficiency programs beyond what is statutorily prescribed because, in OPUCs view, such programs are uneconomical.

Commission Response

The commission declines to expand energy efficiency programs as part of this rulemaking proceeding, because it is beyond the scope of this proceeding. PURA §39.919 is limited to establishing an average total residential load reduction goal through the utilization of responsive device programs, a subcategory of demand response programs. Energy efficiency and other demand programs are addressed by other rules that were not noticed as part of this rulemaking proceeding.

OPUC recommended the commission consider how access to the internet, or lack thereof, may affect the participation of low to moderate-income customers in demand response programs. OPUC commented that while the proposed rule would "drastically expand access" to demand response programs for residential customers, but noted that some customers, such as those without internet, would not be able to participate. OPUC explained that smart appliances or devices require an internet connection to function, which would inhibit the ability of customers without internet to participate. OPUC further recommended that REPs should work to inform customers about incentives like federal tax credits, energy savings, rate reductions, and bill rebates.

Commission Response

The commission declines to modify the rule to account for customers without internet access, as requested by OPUC. As noted by OPUC, customer without internet connection are not

able to utilize smart appliances and devices. Accordingly, this recommendation, along with OPUC's recommendations related to other incentives such as tax credits or rate reductions, are beyond the scope of this rulemaking.

Proposed §25.186(b) – Definition

Proposed §25.186(b) defines the term "smart responsive appliance or device" as an appliance or device that may be enabled to allow its electric usage or electric usage of connected appliances or devices to be adjusted remotely.

HARC, SPEER, and TAEBA recommended the terms "average total residential load" and "average total residential load reduction" be defined in proposed §25.186(b). TAEBA commented that clear and standardized definitions align stakeholder expectations and help ensure consistent implementation across a multitude of programs. TAEBA noted that such definitions would provide a reliable method for evaluating the performance of demand response programs and meeting the average total residential load reduction goal.

Commission Response

The commission declines to define the terms "average total residential load" and "average total residential load reduction," because those terms are not used in the rule, other than as a part of the name of the goal. Instead of employing these concepts directly, the rule directs REPs and ERCOT to provide specific data points that can be used to calculate whether the goal has been met over any number of peak demand periods. If additional incentives or requirements are developed in the future that require individual REPs to evaluate whether

its program meets the goal, commission staff can create guidance materials, as appropriate, at that time.

REP Coalition recommended adding new definitions to proposed §25.186(b) for clarity and to establish the appropriate context for implementation of PURA §39.919. Specifically, REP Coalition recommended defining "demand response" as "induced changes in electric usage by residential customers in response to incentives provided by retail electric providers;" "demand response program" as "a program offered by a retail electric provider that creates an incentive for residential customers to participate in demand response"; "demand response provider" as "a third party that facilitates or supports the operation of a demand response program offered by a retail electric provider; "responsive device program" as "a demand response program offered by a retail electric provider pursuant to the requirements of this section that incorporates the use of a smart responsive appliance or device." REP Coalition also recommended revising the term "smart responsive appliance or device" as "an electricity consuming appliance or device that may be enabled to allow its electric usage or electric usage of connected appliances or devices installed at the residential premise to be adjusted remotely." The REP Coalition argues that the rule will be clearer if concepts are clearly defined in the definitions section rather than in other portions of the rule.

Commission Response

The commission declines to adopt definitions for the terms "demand response," "demand response program," "responsive device program," or "demand response provider" and further declines to revise the term "smart responsive appliance or device" because those

terms and changes are unnecessary. The definitions recommended by REP Coalition are effectuated under §25.186(c) which states "A REP may offer a responsive device program that offers *an incentive to residential customers* with smart responsive appliances or devices *to reduce electricity consumption*." Moreover, given the narrow focus of PURA §39.919 and the proposed rule on responsive device programs, it is not within the scope of this project to adopt definitions for a broader range of demand response-related concepts.

The commission also declines to add the phrases "electricity consuming" and "installed at the residential premise" to the term "smart responsive appliance or device." The REP Coalition does not provide any specific reasoning for these additions, and in the context of the rule it is unclear what specific scenarios the REP Coalition is concerned about.

The commission also disagrees with the REP Coalition's general premise that formally defining terms always results in a better final rule and is clearer for consumers than letting the context of the rule and its other provisions provide necessary clarity. Formally defined terms are often carelessly applied across rules resulting in unintended consequences. Moreover, baking additional concepts into definitions can create confusion as to what is core to the defined term and what is actually playing some other regulatory function, such as the applicability of the rule (e.g., a "smart responsive device" is not exclusively a residential tool; "demand response" is not inherently linked to incentives provided by REPs). On balance, in this instance, the commission does not agree that the additional definitions and definition modifications would improve the clarity of the rule.

Proposed §25.186(c) – Responsive device program

Proposed §25.186(c) authorizes a REP to offer a responsive device program that offers an incentive to residential customers with smart responsive appliances or devices to reduce electricity consumption during an ERCOT peak demand period.

SPEER recommended proposed §25.186(c) be revised to address residential load reductions generally, not just reduction of electricity consumption during an ERCOT peak demand period. Specifically, SPEER recommended replacing the term "responsive device program" with the term "demand response program" and also recommended deleting "during an ERCOT peak demand period. Similarly, the REP Coalition also recommended clarifying that REPs can offer responsive device programs during off peak periods as well.

Commission Response

The commission declines to expand the scope of the rule by replacing "responsive device program" with "demand response program". In the context of §25.186(c) the term "demand response program" is not appropriate because demand response programs that do not utilize responsive appliances or devices are not the subject of this rulemaking and will not be used in calculating the ratio under §25.186(d)(3).

The commission modifies the rule by removing the phrase "during an ERCOT peak demand period" from §25.186(c). The commission agrees that a responsive device program can offer incentives for reducing demand at any time. However, the commission emphasizes that only

reductions during ERCOT peak demand periods are relevant for calculating the ratio for the average total residential load reduction goal.

OhmConnect opined that the requirement for the commission to establish a residential demand response goal may be the most important part of SB 1699 and that the law recognizes the outsized influence that demand from air conditioning has on load – approximately 80% of peak demand and potentially even 80% of net peak demand. As such, OhmConnect maintained that the intent of the Legislature was to require the commission to establish specific load reduction goals to be achieved within an appropriate timeframe. OhmConnect commented that the statutory authorization to use 10% of all utility efficiency program funds for residential demand response further evidences the legislative intent to promote additional efforts to reach such specific load reduction goals. OhmConnect remarked that despite such statutory language, "the proposed rule lacks a specific goal or any plan to establish clear metrics by which the efficacy of the program can be measured."

Commission Response

The commission disagrees with OhmConnect that PURA requires the commission to establish specific load reduction goals to be achieved within a specific timeframe. As discussed in detail in commission responses to comments on the goal below, the statutory language of PURA §39.919(c) requires the goal to be measured as a ratio of the load reduced by responsive device program participants during peak and the total peak demand of those participants. While the commission agrees that this ratio is, effectively, a measure of the effectiveness of responsive device programs rather than a measure of aggregate demand

reduction the programs achieve, the commission cannot, by rule, circumvent specific statutory direction on how the goal is to be calculated. Furthermore, the statute also provides the intended means of achieving this goal, which is allowing REPs to offer responsive device programs and to authorize TDUs to direct a portion of their energy efficiency funds to these programs.

OhmConnect, Octopus, and TAEBA each commented that the rule should be revised to require REPs to offer responsive device programs. TAEBA commented that demand response should be available to all customers and such a change would maximize grid reliability and customer benefits. OhmConnect commented that by making several aspects of the proposed rule optional for REPs, the rule "makes no material changes to existing demand response programs" and will accordingly not cause any real effect in the market. OhmConnect stated that making the certain aspects of the rule mandatory would provide a certain expectation of reasonable incentives to participating REPs from utility energy efficiency programs. OhmConnect maintained that without such a change, "there is nothing in the proposed rule to help scale residential demand response capabilities in the ERCOT market."

Octopus recommended interpreting PURA §39.919(b)(1) to mean any residential customer within the ERCOT power region must have an opportunity to opt into a demand response program, if eligible. Octopus maintained that making the provision optional "renders the statutory provision meaningless" because if a REP does not want to offer a demand response program, then customers have no options for such a program. Octopus commented that customers should have the option to participate, but REPs should be required to offer a demand response program during the winter

and summer. Octopus noted that making the rule mandatory for REPs would benefit both retail customers and the ERCOT grid. Octopus commented that, while the proposed rule nominally satisfies some of the statutory requirements of PURA §39.919, it does not adequately address the legislation's intended purpose of reducing average total residential load. Octopus remarked that the proposed rule actually creates disincentives for REPs to provide demand response more than anything else.

Base Power categorically opposed requiring REPs to provide, or partner with a third-party to provide demand response programs. Base Power expressed that such a requirement is contrary to the intent of PURA §39.919and would be unnecessary and burdensome, particularly for REPs that do not offer traditional demand response programs with smart appliances or devices. In such cases, requiring demand response participation would be duplicative and contrary to some REP's demand response business models, such as programs that prioritize customer control of energy usage. Base Power maintained that the proposed rule appropriately authorizes REPs to offer demand response programs where reasonably available and recognizes the impracticality of a blanket requirement. Base Power emphasized that PURA §39.919 provides flexibility to REPs in meeting the average total load reduction goal. Moreover, Base Power commented that requiring demand response programs would provide an unfair competitive advantage to REPs that have already established demand response programs or utilize responsive devices.

Commission Response

The commission agrees with Base Power that PURA §39.919 provides REPs flexibility in designing and offering a responsive device program. There is no language in PURA §39.919

that requires a REP to offer such a program, and the commission will not impose such a requirement by rule at this time. Under PURA §39.001, the commission "may not make rules…regulating competitive electric services, prices, or competitors…except as authorized by this title" and "shall authorize or order competitive rather than regulatory methods to achieve the goals of this chapter to the greatest extent feasible and shall adopt rules and issue orders that are both practical and limited so as to impose the least impact on competition." While the commission places limitations on the types of services that REPs can offer for consumer protection purposes, as authorized by statute, the competitive market requires a REP to have the flexibility to determine which products and services it offers.

Octopus and TAEBA each recommended, as an alternative to requiring REPs to offer demand response programs, that the commission incentivize participation through an ERCOT-based incentive mechanism. Octopus provided information on the "Demand Flexibility Service" offered in the United Kingdom for use as a model for demand response in Texas.

Commission Response

The commission declines to modify the rule to provide incentives for participation through an ERCOT-based incentive mechanism, because ERCOT programs are beyond the scope of this rulemaking proceeding, which is to implement the requirements of PURA §39.919.

AARP recommended that REP-provided responsive device programs target "low to fixed income and energy burdened households." AARP emphasized the need for REPs to carefully consider outreach efforts for such customers.

EDF and ASC recommended the proposed rule be revised to effectuate the intent of PURA §39.919(b)(1), which requires the program facilitated by commission rule "[provide for] demand response participation to residential customers where reasonably available." Specifically, EDF and ASC recommended the proposed rule be revised to ensure that demand response programs are available for as many customers as possible. EDF and ASC emphasized the importance of the commission considering where and why demand response programs are not "reasonably available." Specifically, EDF and ASC indicated that the statutory provision could lead to incorrect assumptions for exclusion of particular groups of customers, such as low-income individuals, renters, or those without internet access. EDF and ASC noted that, contrary to those assumptions, such customers have high rates of participation outside Texas in demand response programs.

Commission Response

The commission declines to modify the rule to target "low to fixed income and energy burdened households," because customer outreach and incentives are at the discretion of the REP when designing its responsive device program. Potential funding for responsive device programs under §25.186(f) by TDUs may help facilitate availability of smart responsive appliances and devices to low-income customers, renters, and energy burdened households, but imposing specific customer-based requirements on REP programs is not contemplated by PURA §39.919. Moreover, neither the statute nor the rule requires REPs to develop responsive device programs, and imposing specific requirements as to which customer the

REPs must target may discourage participation and undermine the statutory objective of encouraging the widespread deployment of smart responsive devices and appliances.

Proposed §25.186(c)(1) – Contracting with demand response providers

Proposed §25.186(c)(1) authorizes a REP to contract with a demand response provider to provide a responsive device program.

EDF and ASC recommended the proposed rule explicitly provide for PURA §39.919(b)(4) because that requirement is not currently addressed. PURA §39.919(b)(4) requires the program facilitated by commission rule "[provide for] opportunities for demand response providers to contract with retail electric providers to provide demand response services."

Commission Response

The commission declines to implement the recommended change because it is unnecessary. This statutory requirement is codified in §25.186(c)(1) which explicitly authorizes a REP to contract with a demand response provider to provide a responsive device program.

HARC and Sierra Club recommended §25.186(c)(1) be revised to explicitly indicate that a REP may administer a demand response program directly or contract with a demand response provider.

Commission Response

The commission declines to modify the rule to explicitly state that a REP can administer its own responsive device program because it is unnecessary. Proposed §25.186(c) explicitly

states that a REP may offer a responsive device program. Proposed §25.186(c)(1) provides additional authorization for a REP to contract with a demand response provider to administer the program. The use of the term "may" makes this provision permissive. Neither the statute nor the rule precludes a REP from offering a responsive device program independently without a third-party demand response provider.

Proposed §25.186(c)(2) and (c)(2)(A) – Responsive device program requirements and participation by residential customers

Proposed §25.186(c)(2) prescribes the requirements for a responsive device program. Proposed §25.186(c)(2)(A) requires a responsive device program to allow demand response participation by residential customers where reasonably available, including during the summer and winter seasons.

HARC, Sierra Club, TAEBA, Tesla, and AARP recommended proposed §25.186(c)(2)(A) be revised to explicitly indicate that the responsive device program authorizes year-round participation and is not limited to just the summer and winter seasons. HARC explained that revising the provision in this manner could further lower customer electricity bills and reduce the costs of electricity in the wholesale market. Sierra Club commented that allowing participation all year could further lower customer electricity bills and reduce the costs of electricity in the wholesale market. Sierra Club further stated this limitation should be removed because PURA §39.919 does not contain such a limitation. TAEBA remarked that a year-round approach more effectively enhances grid reliability and provides ongoing savings opportunities to customers. Tesla commented that limiting program participation to the summer and winter may be confusing

and does not provide value to customers. AARP commented that proposed §25.186(d) should address energy consumption throughout the entire year, not just during ERCOT peak demand periods.

Commission Response

The commission declines to implement the recommended change because it is unnecessary. The language of §25.186(c)(2)(A) only requires a responsive device program to allow for demand response participation by residential customers where reasonably available, *inclusive of* participation during the summer and winter seasons. Under the Texas Code Construction Act, "including" is a "term of enlargement and not of limitation or exclusive enumeration, and use of the [term] does not create a presumption that components not expressed are excluded." This provision is reflective of the requirements of PURA §39.919(b)(8), which explicitly provides for the "achievement of demand reductions within both summer and winter seasons."

Proposed §25.186(c)(2)(B) – Capability to respond to emergency energy alerts (EEAs)

Proposed §25.186(c)(2)(B) requires a responsive device program to be capable of responding to an EEA issued by the independent organization certified under PURA §39.151.

Octopus recommended revising proposed §25.186(c)(2)(B) for clarity. Specifically, Octopus noted that the provision requires the program to be capable of responding to an energy emergency alert (EEA) issued by ERCOT, but not that the program must respond. Octopus maintained that this distinction is critical depending on whether the commission intends to require a response to

an EEA. Moreover, ERS is designed explicitly for such a purpose and is compensated by ERCOT through a competitive bidding process in accordance with §25.507, relating to Electric Reliability Council of Texas (ERCOT) Emergency Response Service (ERS). Octopus indicated that if the new rule obligates residential customers to respond to an EEA separately from ERS, then ERCOT would be inappropriately receiving a no-cost reliability tool without compensating residential customers for demand reductions. Octopus further noted that the provision does not provide details for how quickly a device must respond, at which level of EEA response is expected, or how successful response is measured.

Commission Response

The commission agrees with Octopus that residential customers are not, under this rule, required to respond to an EEA. Proposed §25.186(c)(2)(B) reflects the statutory requirement of PURA §39.919(b)(3) which requires a responsive device program to be *capable* of responding to an energy emergency alert issued by ERCOT. The commission declines to modify the rule to include additional details such as how quickly the device must respond, because these details may vary depending upon how a REP designs its program and how it intends to deploy these demand response resources.

Tesla commented that the requirement of proposed §25.186(c)(2)(B) for demand response programs to respond to energy emergency alerts is problematic and may create confusion. Tesla explained that many customers purchase its batteries for their own needs during emergencies, not for the grid.

Commission Response

A responsive device program is not required to respond to an EAA under §25.186(c)(2)(B), only be capable of responding. This provision is a codification of PURA §39.919(b)(3) and therefore the inclusion of this provision in the commission rule is necessary.

SPEER, HARC, and Sierra Club recommended adding new §25.186(c)(2)(B) which would require the responsive device program to promote smart meter technology and energy efficiency measures or programs. HARC and Sierra Club stated the addition of this provision would effectuate the directives of SB 1699 and PURA §39.919(b)(2) by explicitly facilitating the deployment of smart responsive appliances or devices.

Commission Response

The commission declines to implement the recommended change because it is unnecessary. The requirement of PURA §39.919(b)(2) to promote the use of smart metering technology is reflected in the rule's emphasis on smart responsive appliances or devices which by nature are capable of telemetry. Moreover, all four ERCOT TDUs have deployed smart meter technology in accordance with Chapter 25, Subchapter F (§§25.121 through 25.133) of the commission rules and more specifically, §25.130, relating to Advanced Metering. In the same vein, under §25.181(h)(5)(C), relating to Energy Efficiency Goal, an electric utility in an area where customer choice is offered (i.e., a TDU in the ERCOT power region) is required to encourage and facilitate the evaluation of programs – "facilitated by advanced meters to determine the demand and energy savings from such programs."

Proposed §25.186(c)(2)(C) – Critical care customers

Proposed §25.186(c)(2)(C) requires a responsive device program to ensure that the program does not adversely impact the needs of a critical care residential customer or chronic condition residential customer in accordance with §25.497.

REP Coalition requested clarity as to whether proposed §25.186(c)(2)(C) prohibits REPs from enrolling critical care customers in responsive device programs, or if such customers are eligible to be enrolled provided that appropriate consents or the ability to adjust participation are provided.

Commission Response

The commission clarifies that §25.186 does not prohibit the enrollment of critical care customers in a responsive device program. However, a REP must establish adequate safeguards in its programs to ensure that the critical customers described under §25.186(c)(2)(C) are not adversely affected when choosing to participate and are aware of the terms of the program they are enrolled in, including the capability and method to opt out of the program or and individual program deployments.

Proposed §25.186(c)(2)(D) – Single participation by residential customer

Proposed §25.186(c)(2)(D) requires a responsive device program to limit a residential customer to participation in a single demand response program within the ERCOT region.

HARC, Sierra Club, and SPEER recommended proposed §25.186(c)(2)(D) be revised to allow for participation in multiple demand response programs. HARC and Sierra Club also recommended

proposed §25.186(c)(2)(D) account for overall load reductions of the customer to prevent duplication of benefits across programs the customer participates in.

Commission Response

The commission agrees with commenters that customers should not, by rule, be prohibited from participating in multiple responsive device programs. However, a customer that participates in an emergency response program must be capable of performing if called upon to do so. The commission revises §25.186(c)(2)(D) to clarify that a residential customer that is enrolled in an emergency program such as the Emergency Response Service under §25.507, relating to Electric Reliability Council of Texas (ERCOT) Emergency Response Service (ERS), or a TDU load management program under §§25.181-83 of this title, relating to Electrical Planning: Energy Efficiency and Customer-Owned Resources, is prohibited from participating in a residential demand response program.

HARC, Sierra Club, and SPEER recommended adding a new subparagraph which would require the responsive device program to facilitate the deployment of smart responsive appliances and devices for use in demand response products or plans offered by a REP. HARC provided redlines consistent with its recommendation. SPEER also recommended the provision be revised to account for demand response products of plans offered by a demand response provider.

Commission Response

The commission declines to implement the recommended change because it is unnecessary. The requirement of PURA §39.919(b)(6), which requires the commission rule adopt a

program that facilitates the deployment of smart responsive appliances and devices for enrollment in a REP-offered demand response products or plans, is codified under §25.186(c). Furthermore, the rule generally emphasizes and facilitates the usage of responsive appliances and devices for measuring the total average load residential reduction goal.

TAEBA, EDF and ASC, OPUC, HARC, Sierra Club, and SPEER recommended the proposed rule include a requirement for a REP-provided demand response program to compensate customers.

HARC, Sierra Club, and SPEER recommended adding a new subparagraph which would require the responsive device program to compensate residential customers for delivered load reductions due to participation in a demand response program. Sierra Club recommended participating customers be provided an incentive, reduced bills, or direct compensation for delivered load reductions due to their participation. SPEER further specified such compensation should come directly from REPs. TAEBA recommended the proposed rule include a "transparent compensation mechanism" that offsets transmission and distribution costs and rewards customers for actual and verifiable load reductions through participation in a demand response program.

TAEBA indicated that the ERCOT competitive retail market empowers customers to monetize reducing energy consumption through REP demand response product offerings such as smart devices. TAEBA noted that if the commission ensures such offerings are sufficiently funded, smart devices could provide further value to consumers. TAEBA remarked that such a mechanism would encourage broader program participation in a manner consistent with a REP business model

that has facilitated the promotion of demand response. EDF and ASC recommended the proposed rule explicitly address reasonable residential customer compensation for participating in demand response programs in a manner that "reflects the resource adequacy and cost relief value of [residential customer's] demand response efforts." EDF and ASC highlighted that demand response has been used to the benefit of REPs and large industrial customers to address grid reliability or price reductions attributable to growing demand within the ERCOT region, including generation shortfalls and transmission constraints.

OPUC recommended revising proposed §25.186(c) to include "tangible financial benefits through either direct payments or lower retail rates" to compensate customers that participate and shed load or otherwise adjust their schedule to support the grid. OPUC indicated that, based on an International Energy Agency Study, residential customers are responsive to relatively small changes in price. OPUC recommended the commission provide examples of incentives REPs could offer, such as dynamic retail rate structures to program participants. For example, "Critical Peak Rebate" pricing provides bill credits to customers that reduce usage below a baseline amount during periods where the wholesale market price of energy exceeds a certain threshold. OPUC suggested REPs consider both performance-based incentives where measurement and verification are required as well as participation-based incentives where the utility controls the equipment used in demand response. OPUC noted that financial penalties for underperformance could apply in such programs. OPUC further recommended the commission, as the entity best positioned to evaluate demand response compensation structures and set policy, also provide guidance to REPs on different program incentives and their effectiveness.

Commission Response

The commission declines to modify the proposed rule to require compensation or otherwise address the types of compensation a REP can offer retail customers for participation in a responsive device program. As previously stated, the statute does not require the commission rule to establish incentives for demand response programs. Moreover, consistent with PURA §39.001(c) and (d), this rule favors competitive rather than regulatory solutions by providing REPs with the flexibility to establish adequate incentives to attract customer participation.

The commission disagrees with OPUC's argument that the commission is the entity best positioned to evaluate compensation structures and provide guidance to REPs on the effectiveness of different program incentives. The commission does not have any direct insight into the different costs, risks, hedging strategies, and other considerations that REPs must take into account when designing retail products or related incentive structures. The commission also has far less direct insight into customers' preferences than REPs, for whom product marketing is a critical component of their business models. However, the data gathered in accordance with this rule will assist the commission in understanding many aspects of residential demand response and may provide insights on how to better encourage demand response in the future.

To ensure that customers are not locked into these programs, the commission adds new §25.186(c)(2)(E) to add an expiration requirement to responsive device programs. Specifically, a responsive device program that is offered or included as a part of a product or plan for retail electric service, it expires when the customer's contract for retail service

ends. Similarly, if the responsive device program is offered as a standalone product, plan or as an additional service, it expires in a manner consistent with the REP's disclosure to the customer regarding the term of the responsive device program, but must otherwise end on the date the enrolling REP is no longer the customer's REP of record.

Proposed §25.186(c)(3) – Definition of ERCOT peak demand period

Proposed §25.186(c)(3) defines an "ERCOT peak demand period" as an hour with the highest daily value of peak net load, where peak net load is calculated as gross load minus wind and solar.

HARC and Sierra Club recommended striking proposed §25.186(c)(3) from the proposed rule because the provision is unnecessary and not required by law. Specifically, PURA §39.919 does not limit demand response periods to net peak demand periods and therefore the provision should be deleted.

Commission Response

The commission declines to implement the recommended change. Neither demand response programs generally nor responsive device programs are prohibited from deploying outside of ERCOT peak demand periods. The definition of ERCOT peak demand period is necessary to include in the rule because that is the time period being evaluated for purposes of the average total residential load reduction goal.

ERCOT recommended proposed §25.186(c)(3) be revised to clarify that only ERCOT-registered wind and solar generation will be included in an "ERCOT peak demand period." ERCOT

explained that ERCOT is currently unable to account for unregistered wind and solar generation output. ERCOT provided draft language consistent with its recommendation.

ERCOT also recommended proposed §25.186(c)(3) be revised to add a definition of "gross load" in a manner that aligns with the same value ERCOT uses for load for purposes of determining four coincident peak (4CP) intervals. ERCOT provided draft language consistent with its recommendation.

Commission Response

The commission revises the definition of ERCOT peak demand period to "an hour with the daily peak value of net load, where net load is calculated as defined in ERCOT protocols." The commission also relocates this provision to new §25.56(d)(4) because the term is only appears in §25.56(d).

REP Coalition recommended revising proposed §25.186(c)(3) to indicate that an ERCOT peak demand period "may be measured as" an hour with the highest value of peak "system load, high residential load, or the highest value of peak" net load. REP Coalition provided draft language consistent with its recommendation. REP Coalition argues that net load may not reflect the times when residential demand response can be most impactful. REP Coalition argues that expanding the measured periods to include peak demand periods that better account for the specific behaviors of residential customers, the commission would enable the creation of responsive devise programs that are more aptly tailored to the capabilities and needs of residential customers.

Commission Response

The commission declines to implement the requested changes to provide flexibility in how an ERCOT peak demand is be measured. Initially, this approach is not practicable, since the commission is the entity that calculates whether the goal has been met, and the commission cannot use different variables to calculate the goal relative to each REP based on its tailored responsive device program. The commission interprets peak demand as peak net load, because these are the periods where demand response most valuable to the system.

EDF and ASC recommended that proposed subsection (c) rule be broadened to include all types of REP demand response programs and measures, even if funding is dedicated solely to REP-provided smart responsive appliances and devices. Specifically, EDF and ASC commented that the proposed rule inappropriately narrows the scope of demand response program by only prioritizing programs that utilize smart technology. EDF and ASC commented that PURA §39.918(b) does not limit demand response options to smart responsive appliances and devices, even though it promotes their use. EDF and ASC indicated that other demand response programs include "direct non-automated customer requests for energy use modifications," timers on water heaters an electric vehicle chargers, and virtual power plants such as residential batteries. EDF and ASC commented that the proposed rule could benefit the competitive retail market's offerings of demand response program if a broader scope is adopted. EDF and ASC recommended proposed §25.186(c)(3) be revised to acknowledge and emphasize the value of flexible REP-provided demand response programs that are available for a variety of purposes. EDF and ASC noted that while the provision is consistent with statute, ERCOT "may often need load reductions during peak and net peak load hours" and flexible services that are available during non-peak hours, such

as "shoulder season maintenance periods and transmission-constrained hours." EDF and TSC also noted that such a change would benefit the growing adoption of solar generation, batteries, and, electric vehicles by residential customers by utilize automated demand response capabilities that facilitate load reduction.

Commission Response

As discussed in response to general comments above, the rule does not require a REP to brand its program as a responsive device program, prohibit a REP from developing or offering alternative demand response programs that do not utilize responsive programs or devices, or incorporate additional demand response elements into its responsive device program. However, by statute, the goal itself must be calculated based on customers with responsive appliances or devices. Accordingly, this rule focuses on the requirements of a responsive device program.

Proposed §25.186(d) – Average total load reduction goal.

Proposed §25.186(d) prescribes the average total residential load reduction goal for the ERCOT power region.

OPUC recommended the commission request additional data and feedback from ERCOT on the average residential load reduction goal in proposed §25.186(d), including ERCOT's planned implementation strategy and whether adjustments to the goal may be necessary. OPUC commented that, based on discussions with commission staff, it understands that the average total residential load reduction goal of 0.25 is bound to a four kilowatt (kW) peak residential demand

and a one kW reduction using smart appliances. OPUC expressed that it is unclear how the load reduction goal was calculated and from where such data was derived from and that the commission should seek additional information before adoption.

OPUC also asserted that ERCOT must proactively "facilitate the effective and efficient implementation of new rules," particularly with demand response programs that affect residential customers. OPUC argued that ERCOT could help model demand response prices and incentives. OPUC argued that ERCOT should make its inputs, outputs, and assumptions used for this modeling public.

OPUC also recommended the commission also address any barriers to aggregated distributed energy resource (ADER) pilot projects to guarantee such projects can be fully adopted and begin contributing energy to the grid and supporting reliability.

Commission Response

In response to OPUC's recommendation that the commission request additional data and feedback from ERCOT, commission staff and ERCOT staff worked closely together to develop the original goal. Regarding OPUC's request for clarification on the source of the data and calculation method for establishing the goal, the proposed goal was calculated using the four days in the summer of 2023 with the highest hourly peak net load value in each month—June 20, July 31, August 25, and September 6—for the roughly 30,000 customers that ERCOT knows to be enrolled in a REP-administered demand response program based on ERCOT's annual demand response survey. The ratio was calculated, as required by

statute, by dividing the amount of load reduced by the actual amount of load during a peak demand period.

The commission declines to modify the rule to require ERCOT to provide modeling on the prices and incentives for demand response programs. ERCOTs role under this rule is limited to helping the commission collect and analyze the data necessary to calculate the goal and whether it is being achieved. The task of designing responsive device programs and establishing proper incentives for those programs belongs to REPs, who are best positioned to assess the market and collectively identify, through competition, the most effective programs and incentive structures to encourage the adoption of smart responsive appliances and devices.

The commission also declines to address obstacles to the ADER pilot project in this rule, because ADER implementation is beyond the scope of this rulemaking project.

Proposed §25.186(d)(1) – REP report to ERCOT

Proposed §25.186(d)(1) requires a REP providing responsive device program within the ERCOT region to submit to ERCOT a report on responsive device program performance for each calendar month in the quarter within 45 days following the end of each calendar quarter.

TAEBA, EDF and ASC, HARC, Sierra Club, and SPEER recommended the REP reporting requirement under proposed §25.186(d)(1) be simplified or more generalized. TAEBA recommended the commission revise the provision to reduce administrative overhead, maintains

transparency, and makes data submission protocols more streamlined. TAEBA indicated that such revisions would allow REPs to implement more effective load reduction strategies and therefore lead to increased demand response program participation and help more efficiently meet the goals established by the commission.

EDF and ASC stated that the proposed REP reporting requirements are administratively burdensome and risk customer privacy. Specifically, EDF and ASC recommended that REPs only be required to report aggregate event information given that some REPs may initiate their demand response program in outside peak and net peak load. Alternatively, if the commission requires meter or device specific information, ASC and EDF recommended the provision be revised to indicate the rationale and value of such information and require ERCOT treat it as confidential. EDF and ASC indicated that the purpose of the REP reporting requirement is unclear given the rule makes REP participation in demand response program optional. EDF and ASC further commented that there are "neither rewards nor penalties to motivate REPs to offer demand response programs or achieve the demand response goal" which makes it unclear why REP reporting is important. EDF and ASC maintained that the reporting requirements are redundant given that ERCOT already records smart meter data and is aware what electric service identifiers (ESI IDs) are served by each REP.

HARC, Sierra Club, and SPEER recommended REPs only be required to report the number of enrolled residential customers with smart appliances or devices rather than report each enrolled ESI ID with smart appliances or devices. Specifically, HARC and SPEER recommended the requirement to report each ESI ID deployed for every demand response event be replaced with a

requirement to report the aggregated load reductions achieved for each event. In contrast, Sierra Club recommended the requirement to report each ESI ID deployed for every demand response event be replaced with a requirement to report the recommended total number of residential meters participating in the event and the aggregated load reduced in kWs and kilowatt hours (kWhs) aggregated load reductions achieved for each event. HARC, SPEER, and Sierra Club explained that burdensome reporting requirements could disincentivize participation in a demand response program under the rule and increase administrative costs which would consequently reduce the amount of funds available for residential load reduction efforts. HARC also emphasized that burdensome reporting requirements could represent potential privacy concerns for customers. HARC, Sierra Club, and SPEER provided redlines consistent with their recommendation.

Octopus characterized the reporting requirements for REPs under proposed §25.186(d)(1) as a "time tax" that unnecessarily burdens REPs willing to offer demand response programs and does nothing to tax REPs that do not participate.

Commission Response

The commission declines to simplify the REP reporting requirements in the proposed rule, because this information will provide valuable data to help the commission gain a better understanding of responsive device programs, evaluate the reliability potential of such programs, determine if the goal is being met, and verify program effectiveness claims. The commission does not agree with commenters that these requirements are overly burdensome, because a REP must already track this information to administer its program and much of this information is already being provided to ERCOT for its annual survey under Section

3.10.7.2.2 of the ERCOT Protocols. Additionally, under §25.186(e) all data that a REP reports to ERCOT will be confidential and treated as protected information under the ERCOT Protocols.

OhmConnect also recommended transmission and distribution service providers (TDSPs), not REPs, be obligated to comply with the reporting obligations under proposed §25.186(d)(1). OhmConnect explained that such reporting requirements are inconsistent with an "unregulated" retail electric market; further burden REPs that already face difficulties in developing demand response programs that are valuable to their customers; and contravene the objectives of SB 1699 by ultimately disincentivizing participation.

Commission Response

The commission declines to revise the rule to apply reporting requirements to [TDUs] instead of REPs. The commission disagrees with OhmConnect's argument that reporting requirements are inconsistent with an "unregulated" market. The significant features of the deregulated retail electric market are that REPs are largely free to design their own products and determine the pricing for those products. There are multiple statutorily and regulatory reports required of REPs, none of which jeopardize the deregulated status of REPs. In this instance, the commission is requiring REPs to provide data to assist in calculating and analyzing a statutorily-created goal. The REP is the entity that designs its responsive device program and decides when and how to deploy it. Accordingly, the REP is the entity to which the reporting requirement properly applies.

CenterPoint noted that the peak demand periods and performance measurements outlined in the proposed rule are not consistent with savings calculations and performance metrics in the current energy efficiency Technical Reference Manual.

Commission Response

Performance metrics outlined in this rule specifically apply to REPs deploying smart responsive appliances and devices to reduce residential load at any given time, including ERCOT peak demand period. A TDU can still claim energy savings from smart thermostats if the utility can prove the smart thermostat was installed per the Technical Reference Manual as TDUs have historically done. However, a TDU may not claim demand reduction or energy savings from the actual real-time deployment of a responsive appliance or device, such as a smart thermostat to control a customer's HVAC system because that is demand response administered by the REP or its aggregator.

AARP recommended that REPs address barriers to participation experienced by low to fixed income and energy burdened households when reporting information about their responsive device program that will ultimately be received by the commission. Specifically, AARP recommended REPs report on challenges experienced by renters, customers without internet in underserved areas such as rural communities, low to fixed income customers, and those uncomfortable with new technologies such as older adults. AARP emphasized the importance of "partnering with other programs, projects, or funding opportunities" that complement or focus on load reduction such as weatherization, home retrofitting initiatives, and other energy efficiency initiatives to maximize opportunities for participation. AARP also highlighted the need to address trust and privacy

concerns of potential program participants and recommended a "concerted effort" to educate the public on demand response technologies.

Commission Response

The commission declines to expand the reporting requirements as requested by AARP, because the purpose of these reporting requirements is primarily to collect data necessary to track demand reductions. The commission expects to continue to work with stakeholders on exploring barriers to demand response outside of the context of this rulemaking proceeding and can seek out additional information, as necessary, at that time.

Proposed §25.186(d)(1)(A) – electronic service identifiers (ESI IDs) of participating residential customers

Proposed §25.186(d)(1)(A) requires a REP to report to ERCOT the ESI ID for each residential customer with smart appliances or devices enrolled in each demand response program offered by the REP.

REP Coalition recommended replacing the phrase "demand response program" with "responsive device program" in proposed §25.186(d)(1)(A).

Commission Response

The commission agrees with REP Coalition and implements the recommended change. The numerator and denominator of the ratio described by PURA §39.919(c) applies only to customers with a responsive device program. Additionally, §25.186(d)(1) applies to

"responsive device program" so usage of "demand response program" in (d)(1)(A) is overbroad.

Proposed §25.186(d)(1)(B) – Timing and participation of each demand response event

Proposed §25.186(d)(1)(B) requires a REP to report to ERCOT the date of each demand response event, including each demand response event start time and stop time and the ESI IDs deployed for each event.

REP Coalition recommended revising proposed §25.186(d)(1)(B) to define a "demand response event" for purposes of §25.186(d) as "an ERCOT peak demand period that demonstrates reduction of demand due to the retail electric provider's deployment of its responsive device program.

Commission Response

The commission declines to define "demand response event" as requested by the REP Coalition because it may limit the data REPs provide. Specifically, REPs sometimes deploy outside of peak demand period, and sometimes there are demand response deployments that do not result in load reductions.

Octopus recommended the reporting obligations under proposed §25.186(d)(1)(B) be restricted to time periods identified by ERCOT. Octopus explained that, as proposed, the provision needlessly intrudes into a REP's competitive business activities and unnecessarily imposes a burdensome reporting obligation. Octopus maintained that the provision requires a REP provide 24/7 reporting whenever a REP initiates demand response, which does not account for instances where demand

response is called outside of peak demand periods and EEAs such as for proprietary market research and development.

Commission Response

The commission declines to implement the requested change. As previously stated, the customer information provided to ERCOT by REPs under §25.186(d)(1) is substantially similar to information that is already provided to ERCOT under the ERCOT Protocols. Additionally, under §25.186(e) all data that a REP reports to ERCOT will be confidential and treated as protected information under the ERCOT Protocols.

Proposed §25.186(d)(2) – ERCOT report to the commission

Proposed §25.186(d)(2) requires ERCOT to provide an annual report to the commission by March 31 of each calendar year on responsive device program performance for each for each daily ERCOT peak demand period and each ERCOT EEA period for the preceding twelve-month period ending on November 30 of the previous calendar year.

ERCOT recommended revising proposed §25.186(d)(2) to clarify that ERCOT will publicly file its report with the commission. ERCOT provided draft language consistent with its recommendation. ERCOT stated it assumes such information should be publicly available.

Commission Response

The commission agrees with ERCOT and implements the recommended change to require the ERCOT report under §25.186(d)(2) to be publicly filed.

REP Coalition recommended revising proposed §25.186(d)(2) to require ERCOT to report on an aggregate basis so as not to disclose any confidential information.

Commission Response

The commission declines to implement the recommended change because it is unnecessary. Under §25.186(d)(2)(B) and (C) ERCOT will be providing "total amounts" of residential load and residential load reduced, which is aggregated information.

Proposed §25.186(d)(2)(B) – Total load reduced by residential customers

Proposed §25.186(d)(2)(B) requires ERCOT to report the total amount of load reduced by all residential customers enrolled in a responsive device program for each ERCOT peak demand period in the preceding twelve-month period ending on November 30 of the previous calendar year.

ERCOT recommended revising proposed §25.186(d)(2)(B) be revised to replace "each ERCOT peak demand period" with "each day for which ERCOT has received notice of a REP deployment." ERCOT explained that some REPs deploy their responsive device programs infrequently, and therefore most data would not be useful as there would be little to no calculated load reduction values. ERCOT also recommended adding new §25.186(d)(2)(B)(i)-(v) to require that ERCOT's report must include the load-reduction values and metered-load values, in aggregated hourly and 15-minute intervals, for all customers that were directed to deploy during a peak demand period or EEA. ERCOT explained that not all REP-administered responsive device programs may have

been deployed during each period or EEA, therefore such information is important to include in the report.

Commission Response

The commission partially agrees with ERCOT and revises the rule to require ERCOT to provide actual usage data for all periods and load reduction data only for periods in which a deployment occurs.

Proposed §25.186(d)(2)(C) – Total load of residential customers

Proposed §25.186(d)(2)(C) requires ERCOT to report the total amount of load of all residential customers enrolled in a responsive device program for each ERCOT peak demand period in the preceding twelve-month period ending on November 30 of the previous calendar year.

ERCOT recommended adding new §25.186(d)(2)(C) to "describe how ESI IDs with behind-the-meter photovoltaic (PV) generation are accounted for in the calculation of the load reduction values ERCOT is required to file with the Commission." Specifically, ERCOT advised load reduction from customers from PV be based on the reduction in the actual energy consumption at the premise rather than the reduction in metered load because of the offset in consumption due to PV power generation that could lead to exporting energy to the grid during peak net load hours. ERCOT noted that load reduction for such customers with PV could therefore occur where the customer decreases consumption or increases export to the grid. As such, "calculating the load value for a premise with PV as the sum of the customer's metered energy consumption plus its PV generation less PV export would allow this more accurate calculation of load reduction for these customers."

ERCOT noted that a "significant" amount of customers that have enrolled in REP-provided demand response programs, and a 1kW reduction in the load of such customers would benefit the grid in the same manner as a 1kW load reduction by a customer without PV. ERCOT provided draft language consistent with its recommendation.

Commission Response

The commission agrees with ERCOT that PV generation should be accounted for in the data provided by ERCOT for calculation of the goal but implements the recommended change as part of §25.186(d)(2).

Sierra Club recommended adding new §25.186(d)(2)(D) which would require the aggregated information provided to the commission from ERCOT under §25.186(d)(2) to be filed in Project 56966. Sierra Club provided redlines consistent with its recommendation.

Commission Response

The commission adds new §25.186(d)(4) which requires ERCOT to file the information required under §25.186(d)(2) in the commission project established for the filing of that report.

Proposed §25.186(d)(3) – Average total residential load reduction goal

Proposed §25.186(d)(3) provides that the average total residential load reduction goal is 0.25, unless the commission adopts an updated goal under §25.186(d)(3)(C).

EDF and ASC and AARP recommended revising proposed §25.186(d)(3) for clarity. EDF and ASC inquired about whether the goal means reducing total residential demand by 25% at peak load or net peak load and whether demand is measured as absolute maximum demand every year or is a relative demand reduction calculated over time. EDF and ASC also asked how the goal was calculated and the justification for its use. AARP noted that the goal itself is ambiguous as to whether it means the goal is a 25% average load reduction or some other metric. Sierra Club generally recommended the load reduction goal be expressed as a percentage for clarity on what the goal actually is (i.e., a 25% reduction in average total residential load).

EDF and ASC stated the proposed ratio for the goal seems to be measured as "load reduced by all responsive device residential programs in a peak period relative to the total demand of all residential customers participating in those programs."

Commission Response

The commission agrees with EDF and ASC that the proposed ratio for the goal measures "load reduced by all responsive device residential programs in a peak period relative to the total demand of all residential customers participating in those programs." In terms of the requested justification for the use of this goal, the proposed ratio was drafted to align with the specific requirements of PURA §39,919(c). However, the commission makes a number of edits to the proposed text to improve the clarity of the provision, as requested by EDF and ASC and AARP, and also to express the ratio in terms of a percentage, as recommended by Sierra Club.

To clarify and justify the calculation of the goal and the level at which it was set, note that the ratio is calculated by dividing the amount of load reduced by the amount of load that actually occurred, whereas the proportion of load reduction is calculated by dividing the amount of load reduced by the amount of load that would have occurred absent this reduction. Therefore, a ratio of 0.25 corresponds to a 20 percent reduction in residential load, not a 25 percent reduction. The goal was derived from REPs reporting an average reduction of one kW attributable to demand response programs like a change in thermostat temperature. ERCOT reported a maximum consumption of four kW hour in August for the average residential home. The goal is accordingly derived from dividing the reported reduction in demand by the reported usage.

EDF and ASC indicated that if only a low number of REPs offer demand response programs or inadequately market such programs, program participation and demand reduction will be low if the proposed ratio is used. EDF and ASC commented that a 25% demand response goal is high but may only provide a trivial impact on actual peak demand reduction by residential customers. EDF and ASC indicated that it is more appropriate to calculate the goal based on "all residential customers, using actual total residential demand response peak hour reductions as the numerator and total residential load as the denominator" because PURA §39.919 refers to "average total residential load reduction." EDF and ASC noted that its recommended ratio would create a smaller goal that would provide a larger total peak reduction impact.

Commission Response

The commission declines to modify the goal to be based on "all residential customers, using actual total residential demand response peak hour reductions as the numerator and total residential load as the denominator" as recommended by EDF and ASC. The commission agrees with EDF and ASC that if there is low enrollment in responsive device programs, that the proposed ratio can be achieved without significant increases in segment-wide demand reduction. However, as discussed previously, the ratio and how it is calculated is directly governed by statutory language, which cannot be modified by rule.

Octopus recommended the load reduction goal in propose §25.186(d)(3) be revised to provide different goals for the winter and summer seasons. Octopus commented that a 25% load reduction goal is not a reasonable goal for the winter season due to the nature of load differing from the summer season. Octopus explained that summer demand is "homogenous," with approximately 45% of peak load originating from residential air conditioning use and almost all customers uniformly contributing in the same manner. However, because not every customer has electric heating, the load profile differs for the winter season due to some customers using electric heating and others using gas heating. Octopus remarked that "the ratio of winter peak demand to summer peak demand residential customers can range from 75% to 400%." As such, the winter peak for some customers can be 25% less than the same customer's summer peak. Conversely, winter peak usage can be up to four times more than summer peak usage.

Commission Response

The commission declines to modify the rule to have different winter and summer peaks, as recommended by Octopus. The average total load reduction goal is calculated daily and ERCOT's report under §25.186(d)(2) will assist the commission in determining whether the goal is being achieved in accordance with §25.186(d)(3). The rule is structured to allow evaluation of whether the goal is being met over any time period. The primary focus of the rule is the frequency with which goal is met, and data will inform future decisions and also help stakeholders, the commission, ERCOT evaluate residential demand response holistically. But, a winter-specific or summer-specific analysis will also be possible.

ERCOT commented that the average total residential load reduction goal of 0.25 included in §25.186(d)(3) may be too high. ERCOT explained that the goal "appears to exceed historically observed values for at least some days" based on its sampling data from the summer of 2023. ERCOT stated that it used the four days with the highest hourly peak net load value in each month (June 20, July 31, August 25, and September 6) for the approximately 30,000 customers that it is aware of that are enrolled in a REP-administrated demand response program. ERCOT explained that for those four days, the average premise-level load reduction during the peak net load hour for each day ranged from -.048 kW to 1.25kW, and using the calculation from the proposed rule, the load-reduction ratio ranged from -.029 to .0806.

ERCOT noted that some ratios were negatives because some deployments "ended at or near the beginning of the peak net load hour, which allowed the customers' thermostats to revert to the previous lower thermostat setting, causing those customers' actual load in those hours to be *higher*

than their baseline during the hour of peak net load." ERCOT stated that it had "calculated the baseline and actual load reduction values for each customer for each 15-minute interval for each of the four days." ERCOT stated that it had estimated the baseline load values by application of its "Demand Response Baseline Methodologies" used for calculating demand reduction for demand response programs. ERCOT further indicated that "difference between the baseline and actual interval demand values represents ERCOT's estimate of the change in load attributable to the REP's deployment of responsive devices" such as smart thermostats.

ERCOT noted that its analysis indicates that the 0.25 goal "may be difficult to meet for every peak net load hour" because customer "participation in REP-administered programs does not necessarily guarantee that deployment will occur during the highest net peak load hours or for the entirety of those hours." ERCOT maintained that this occurs for reasons such as individual programs not requiring customers to curtail electric consumption or allowing customers to cease curtailment after a certain amount of time, imperfect correlation between prices and net peak load for the full hour of peak net load, imprecise estimates by REPs of high-priced intervals, REP hedge positions that reduce curtailment incentives, and other factors. However, ERCOT expressed that 0.25 could be achievable as more customers participate and REPs become more experienced with targeting demand reductions during intervals with high prices.

Commission Response

The commission declines to reduce the residential load reduction goal in response to ERCOT's comments. Analysis of ERCOT's data shows that REP dispatch of responsive device programs can, at times, surpass the goal set by this rule, if measured when the REPs

choose to deploy their programs and not during the defined peak demand periods. ERCOT's data shows that REPs often do not deploy during ERCOT peak demand periods, but at other times, either due to lack of ability to predict when those periods will occur or because they are deploying for other reasons. In either case, the data indicates that the necessary demand reductions are achievable, indicating that the magnitude of the goal appropriately captures the potential of responsive device programs. Similarly, whether the goal is met appropriately measures whether this potential is deployed during peak demand periods where these demand reductions are most beneficial to the grid.

Proposed §25.186(d)(3)(A) – Calculation of ratio for residential load reduction goal

Proposed §25.186(d)(3)(A) provides that the ratio of load reduced by all responsive device programs during an ERCOT peak period and the total amount of demand of all residential customers participating in the responsive device programs should meet or exceed the average total residential load reduction goal.

ERCOT recommended proposed §25.186(d)(3)(A) be revised to clarify how the average total residential load reduction goal of 0.25 will be determined to have been achieved. Consistent with its recommendation for its reporting requirements under proposed §25.186(d)(2)(B), ERCOT recommended the assessment of whether the goal has been met be limited to those peak demand periods in which a REP deployment occurred. ERCOT also recommended that the commission consider whether achievement of the goal should be based on an average of multiple peak demand periods during a reporting year, such as all of the peak demand periods in which a deployment

occurred, or just the peak demand periods during a summer or winter month in which a deployment occurred." ERCOT provided draft language consistent with its recommendation.

Commission Response

The commission declines to limit assessment of the goal to peak periods in which REP deployment actually occurs, because whether or not a deployment occurs at all is the single largest factor in determining whether responsive device programs are reducing peak demand. If no deployment occurs, the program has failed to reduce peak demand, and excluding such periods would inflate the success rate of the programs.

The commission also declines to predefine over which peaks success will be measured. The goal is measured on a period-by-period basis and can be assessed over any series or subset of periods.

REP Coalition recommended revising proposed §25.186(d)(3)(A) to permit the ratio of load reduced by all responsive device programs during an ERCOT peak demand period and the total amount of demand of all residential customers participating in the responsive device programs to aggregate responses observed during different peak demand periods. REP Coalition provided redlines consistent with its recommendation.

Commission Response

The commission declines to modify the rule to allow the ratio to aggregate responses observed during different peak demand periods because it is unnecessary. The ratio is a

measure of the effectiveness of responsive device programs during each peak demand period. Whether this goal is generally met across different seasons, timeframes, or conditions can be evaluated under the rule as drafted (e.g., the goal was met for 87% of demand response events during the winter months). It is also possible to calculate demand reductions across different peak demand periods, as described by the REP Coalition.

Proposed §25.186(d)(3)(B) – Commission staff review of ERCOT report

Proposed §25.186(d)(3)(B) provides that on or before June 30 of each even-numbered year, commission staff will review the data received from ERCOT under §25.186(d)(2) to assess the effectiveness of the responsive device programs offered by REPs and whether the average total residential load reduction goal under §25.186(d)(3) is being achieved. Proposed §25.186(d)(3)(B) further provides that commission staff will file a recommendation in Project 56966 on whether the commission should adjust the goal.

Sierra Club recommended §25.186(d)(3)(B) to be revised to require commission staff's recommendations to include the aggregated information from ERCOT's report filed in Project 56966, as required by new §25.186(d)(2)(D). Sierra club also requested, that the rule be revised to provide stakeholders with at least 30 days to provide comments on commission staff's recommendations.

Commission Response

The commission declines to require commission staff to file aggregate information because it revises §25.186(d)(2) to require ERCOT to publicly file its report, which will contain the

requested aggregate data. The commission also declines to revise the rule to codify a stakeholder comment period on commission staff's recommendation. Both commission staff and the commission have the ability to request comments on commission staff's recommendations, if appropriate, in light of the substance of the recommendation.

Proposed §25.186(d)(3)(C) – Commission review

Proposed §25.186(d)(3)(C) provides that the commission will consider commission staff's recommendation under §25.186(d)(3)(B) and, if appropriate, issue a written order adopting an updated average total residential load reduction goal, effective December 1 of that calendar year.

SPEER, HARC, and Sierra Club recommended commission staff review the data provided by ERCOT on an annual basis, rather than biannually each even-numbered year. TAEBA recommended proposed §25.186(d)(3)(C) be revised to include an annual process for the "reassessment and adjustment of the average total residential load reduction goal." TAEBA emphasized the importance of providing for such flexibility to maintain the effectiveness of the goal and alignment with technological and market changes. TAEBA commented that regular review would enable the commission to adjust the goal in a manner supported by data, and therefore improve the effectiveness of demand response programs offered within ERCOT.

Commission Response

The commission disagrees with commenters and declines to implement the recommended changes. To provide sufficient time for REPs to implement their programs and for ERCOT to evaluate program data, a biannual basis is appropriate. If this timeframe proves

insufficient, the rule may be amended at a later date. A two-year period ensures that a measurable effect can be recorded and observed for purposes of determining whether the goal has been met or needs to be revised. Additionally, to ensure compliance with the statutory requirement of PURA §39.919(a) that the commission adopt average total load reduction goals for the ERCOT power region *by rule*, the commission revises §25.186(d)(3)(C) to delete language regarding the commission issuing an order to adjust the goal effective December 1 of that calendar year and replaces it with a more general statement that the commission will "determine whether to update the goal." The commission also makes conforming changes to §25.186(d)(3) to omit the reference to the commission updating the goal under §25.186(d)(3)(C).

Proposed §25.186(e) - Confidentiality

Proposed §25.186(e) requires ERCOT to treat the information submitted by a REP under §25.186(d)(3) as protected information as defined by the ERCOT protocols.

REP Coalition recommended revising proposed §25.186(e) to authorize a REP to file any information provided to commission staff as confidential and further requiring the commission to treat any such information that would otherwise be considered confidential under commission rules or the ERCOT Protocols as such. REP Coalition provided redlines consistent with its recommendation.

Commission Response

The commission declines to implement the recommended change because it is unnecessary. ERCOT's filing will not include individual REP's confidential information because the load and load reduced will be provided as total (i.e. aggregated) amounts under §25.16(d)(2)(B) and (C). To address REP Coalition's concerns, the commission revises §25.186(e) to indicate that §25.186 neither authorizes nor requires a REP to publicly disclose proprietary customer information.

Proposed §25.186(f) - Funding

Proposed §25.186(f) authorizes a REP to receive funding for a responsive device program through an energy efficiency incentive program established under §25.181 if the responsive device program meets the requirements of §25.186(c). Proposed §25.186(f) also authorizes a TDU required to provide an energy efficiency incentive program under §39.905 to use up to 10 percent of the budgeted spending for responsive device programs offered by a REP under §25.186(c)

Sierra Club and CenterPoint recommended revising §25.186(f) to add language stating that no other provision of §25.186 prohibits a REP from offering demand response programs that do not utilize funding from an energy efficiency program established under §25.181, relating to Energy Efficiency Goal. Specifically, CenterPoint recommended the rule clearly indicate that a REP that receives funding for a responsive device program is not prohibited from participating in a TDU's other energy efficiency programs. CenterPoint provided draft language consistent with its recommendation.

Commission Response

The commission declines to implement the recommended change because it is unnecessary. As stated previously, there is no provision of §25.186 that would preclude a REP from offering other demand response programs that are not funded by a TDU or that would preclude a REP that receives funding for a responsive device program from a TDU from participating in that TDU's other energy efficiency programs.

Octopus recommended proposed §25.186(f) include incentive payments for participation in a residential demand response program. Octopus maintained that the proposed rule disincentivizes REPs from implementing or expanding demand response programs due to compliance obligations. Octopus further stated that customers rightly object when curtailed during ERCOT EEAs and should be compensated for their participation, particularly during peak demand periods where reliability is a concern. Octopus reiterated its recommendation to use the United Kingdom's Demand Flexibility Service to encourage demand response when appropriate.

Commission Response

The commission declines to impose specific requirements on the types of incentives a REP must offer its customers for participation in a responsive device program. In a competitive retail market, it is up to REPs to design programs that provide adequate incentives to attract customer interest, either as part of the provision of retail electric service or as a standalone program. This aligns with PURA's stated preference for competitive rather than regulatory solutions, promotes innovation, and respects customer choice.

Octopus, TAEBA, CenterPoint, AEP, and Oncor recommended that the commission revise the rule with regards to how much funding a TDU is authorized to provide. Specifically, Octopus commented that the provision is unclear as to the amount of funding available. Octopus advanced that the provision should be reworded to clearly state that "a utility may allocate up to 10% of its energy efficiency budget for the purpose of funding delivery of responsive devices to REP customers," if that is the intended effect.

CenterPoint recommended adding clarifying language that would indicate a TDU is authorized to use up to 10% of the budged spending for load management program offerings, as opposed to 10% of the budgeted spending of the TDU's energy efficiency program as a whole.

AEP, and Oncor commented that the statute only authorizes a TDU to use up to 10% of its budgeted for demand response programs, not its entire budget for energy efficiency. AEP stated the rule incorrectly authorizes the use of up to 10% of the entire portfolio budget on REP programs. Specifically, AEP recommended amending the provision to authorize a TDU to use up to 10 percent of the budgeted spending for demand response programs on the responsive device programs described under proposed §25.186(c).

Commission Response

The commission agrees with Oncor and AEP that a TDU is authorized to use up to 10 percent of its demand response budget to fund REP responsive device programs, rather than 10 percent of its total energy efficiency budget. The commission modifies the rule to replace "the budgeted spending" with "demand response budget", accordingly.

AEP recommended the commission revise proposed §25.186(f) to clarify that a TDU has discretion in deciding whether to allocate funding to responsive device programs. AEP maintained that a program that meets the commission's evaluation, measurement, and verification criteria should not automatically mean a TDU is required to fund it. AEP indicated that cost-effectiveness, budget concerns, and cost recovery of REP programs are all factors among others that a TDU should be authorized to consider before funding a REP program. AEP expressed concern on how the funding of REP programs would impact a TDU's EECRF if such funding is not discretionary. Specifically, whether funding a REP program would be required to be a part of a TDU's overall energy efficiency program budget. AEP recommended that, if the funding is not discretionary, a TDU should be authorized to request additional and separate funding for responsive device programs that will not affect the cost cap.

Conversely, EDF and ASC and Octopus recommend that the provision be revised to clarify that a TDU is authorized to use up to 10% of its energy efficiency budget for demand response programs. Specifically, EDF and ASC recommended the provision be revised to "require a TDU use up to 10% of its total energy efficiency budget to meet REP responsive device requests." EDF and ASC further recommended revisions to limit a TDU discretion to give a lesser amount and provide guidance on allocating funds between different REPs and demand response programs.

Commission Response

The commission agrees with AEP that a TDU is not required to allocate funds to qualifying responsive device programs. Under PURA §39.919(d), a TDU "may use up to 10 percent of

the budgeted spending for demand response programs" to fund responsive device programs under this rule. The "may" establishes this as a permissive provision.

Oncor recommended the rule provide additional information on how TDUs will fund REP-provided demand response programs in accordance with proposed §25.186(f). Specifically, Oncor recommended the rule elaborate upon how funding mechanism would work in practice, how under-recovery and over-recovery would be addressed, and whether TDUs may claim savings on responsive device programs, or whether those will be passed-through. Oncor stated that because TDUs will not have access to demand response performance data, and therefore data on how much savings are being achieved, any savings "would not need to impact a TDU's performance bonus under 16 TAC §25.182(e)." Oncor stated that, in the alternative, a TDU could be authorized to claim savings based on a specified dollar amount that a TDU funded to comply with the goals of §25.181. Moreover, any funding provided under the proposed rule during a program year could be included in the calculation of a TDUs Energy Efficiency Cost Recovery Factor (EECRF) under-collection or over-collection under §25.182(d). Specifically, those claimed savings could be reported as a separate residential customer program in a TDU's annual energy efficiency plan and report filings. Oncor commented that this option would provide the commission information as to how TDUs are funding these programs and, if necessary, evaluate the effectiveness of programs offered under the proposed rule.

Commission Response

An energy efficiency program offered by a TDU in support of the responsive device program must be cost-effective based on commission rules. Savings resulting from installation of these

appliances or devices and the cost of the incentive are inputs considered in this determination. Any demand reduction resulting from a REP demand response program is separate and would not play any part in the savings attributed to customer installation of a responsive device. As in TDU marketplace programs, deemed savings will be used for the purpose of TDU claimed (energy) savings for the device (and only the device), and TDU determination of cost-effectiveness of a program.

TAEBA recommended the commission develop precise and straightforward standardized measurement and verification protocols to reliably record and report demand reductions. TAEBA commented that such protocols would provide transparency and accountability to stakeholders if implemented in a manner that does not add unnecessary administrative burdens.

Commission Response

The commission agrees with TAEBA and adds language to §25.186(f) to require a responsive device program that is funded with energy efficiency funds to comply with the evaluation, measurement, and verification requirements of §25.181.

Oncor noted that it interprets the proposed rule such that a responsive device program that qualifies under proposed §25.186(f) is limited to compliance with only the "the evaluation, measurement, and verification requirements under §25.181." Oncor agrees and explained that it would be inappropriate to require demand response programs offered under the proposed rule to meet the cost-effectiveness requirements under §25.181(d). Oncor explained that a TDU would not have

access to the program's performance data at that time, which is a prerequisite to a cost-effectiveness test.

Oncor recommended the proposed rule include an effective date of January 1, 2025. Oncor additionally recommended that TDU EECRF annual and forecast reporting in accordance with §25.182(d)(1)(A) and (d)(8) reflect demand response program funding under proposed §25.186(f) beginning in 2026. Oncor stated that by delaying the effective date, TDU funding under §25.186(f) can proceed in tandem with the annual review period of an EECRF, which would provide a full calendar years' worth of funding for demand response programs that the commission could then assess in 2026.

Commission Response

The commission declines to revise the rule to include an effective date of January 1, 2025 and also declines to revise EECRF reporting in the manner Oncor recommends because it is unnecessary. A rule is effective 20 days after it is submitted to the *Texas Register*. The commission adopts this rule on December 12, 2024, so absent any administrative delays in submitting this order, the effective date of this rule will be January 1, 2025.

CenterPoint maintained that the only role transmission and distribution utilities (TDUs) have in the implementation of PURA §39.919 is to provide funding to REPs for the implementation of demand response programs utilizing responsive devices. As such, a TDU should be authorized to claim savings associated with such programs in accordance with §25.181. CenterPoint noted that its proposed language, claimed savings "does not and would not extend to calculating net benefits

or performance bonuses." CenterPoint provided draft language consistent with its recommendation.

Commission Response

The commission declines to implement the recommended change because it is inaccurate. As stated previously, a TDU cannot claim demand response savings under §25.186 as part of its goal under §25.181. A TDU can claim energy savings for the installation of devices using its program – as it can today – but it cannot claim actual demand response (kW) savings from the actual dispatch of these devices. A TDU must still follow Subchapter H Division 2 §§25.181-83 and show that the program is cost effective when funding a responsive device program under §25.186(c).

REP Coalition recommended adding a new subparagraph to increase responsive device program participation by enabling more diverse and competitive incentive options for customers. REP Coalition indicated that the recommended language would indicate that ERCOT and stakeholders should work collaboratively to create new market products to incentivize residential customer aggregation under commission leadership.

Commission Response

The commission declines to implement the recommended change because it is beyond the scope of this rulemaking, which is to implement PURA §39.919. The statute does not contemplate the creation of new market products or direct the commission to establish new incentive structures for responsive device programs or residential customer aggregation.

The new rule is adopted under the following provisions of PURA: §14.001, which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which provides the commission with the authority to make adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §14.052, which requires the commission to adopt and enforce rules governing practice and procedure before the commission and, as applicable, practice and procedure before the State Office of Administrative Hearings. The amended rule is also adopted under §39.905 which prescribes legislative goals for energy efficiency and requires the commission to provide oversight and adopt rules and procedures for such goals; and §39.919 which requires the commission to establish goals in the ERCOT power region to reduce the average total residential load and for the adoption of a program that effectuates such a goal through demand response participation to residential customers.

Cross reference to statutes: Public Utility Regulatory Act §§14.001, 14.002, 14.052, 39.905, 39.919.

§25.186. Goal for Average Total Residential Load Reduction.

(a) **Application.** This section applies to the independent organization certified under PURA §39.151 for the Electric Reliability Council of Texas (ERCOT) region, a transmission and distribution utility (TDU), and a retail electric provider (REP) providing demand response using a responsive device program to residential customers.

(b) **Definition.** When used in this section, the term "smart responsive appliance or device" has the following meaning unless the context indicates otherwise. An appliance or device that may be enabled to allow its electric usage or electric usage of connected appliances or devices to be adjusted remotely.

(c) **Responsive Device Program.** A REP may offer a responsive device program that offers an incentive to residential customers with smart responsive appliances or devices to reduce electricity consumption.

(1) A REP may contract with a demand response provider to provide a responsive device program.

(2) A responsive device program must:

(A) allow demand response participation by residential customers where reasonably available, including during the summer and winter seasons;

(B) be capable of responding to an emergency energy alert issued by the independent organization certified under Public Utility Regulatory Act (PURA) §39.151 for the ERCOT region;

(C) ensure that the program does not adversely impact the needs of a critical care residential customer or chronic condition residential customer as those terms are defined in §25.497 of this title, relating to Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers; and

(D) not allow participation of a residential customer that is enrolled in an emergency program such as the Emergency Response Service under §25.507 of this title, relating to Electric Reliability Council of Texas (ERCOT) Emergency Response Service (ERS), or a TDU load management program under §§25.181-183 of this title.

(E) specify that participation in the responsive device program expires:

(i) if participation in the responsive device program is offered or included as part of a product or plan for retail electric service, with the term of the contract; or

(ii) if the responsive device program is offered as a separate product or plan or as an additional service, on the date consistent with the REP's disclosures to the customer regarding the term of the responsive device program, but must end when the REP that enrolled the retail customer is no longer the REP of record for that customer.

(d) **Average total residential load reduction goal.**

(1) No later than 45 days following the end of each calendar quarter, a REP providing a responsive device program within the ERCOT region must submit to ERCOT, on a form prescribed by ERCOT, the following information for each calendar month in the quarter:

(A) the electric service identifier (ESI ID) for each residential customer with smart appliances or devices enrolled in each responsive device program offered by the REP; and

(B) the date of each demand response event, including each demand response event start time and stop time and the ESI IDs deployed for each event.

(2) No later than March 31 of each calendar year, for each daily ERCOT peak demand period and each ERCOT energy emergency alert period, ERCOT must publicly file with the commission the following information for the twelve-month period ending on November 30 of the previous calendar year. For purposes of this paragraph, the load associated with any premise with behind-the-meter photovoltaic (PV) generation will be calculated as the sum of the premise's import from the grid plus any PV generation less any export to the grid.

(A) the date of the period, the time of the period, and the hourly and 15-minute interval values of load and net load during the period;

(B) the aggregated hourly and 15-minute interval actual metered load of all the residential customers enrolled in a responsive device program during the ERCOT peak demand period or energy emergency alert period; and

(C) for each day for which ERCOT has received notice of a REP responsive device program deployment and for each ERCOT energy emergency alert period:

(i) the estimated hourly and 15-minute interval load reduction by all residential customers enrolled in a responsive device program during the ERCOT peak demand period or energy emergency alert period;

(ii) the estimated hourly and 15-minute interval load reduction by all customers identified in clause (i) of this subparagraph that were deployed at any point during the ERCOT peak demand period or energy emergency alert period;

(iii) the aggregated hourly and 15-minute interval actual metered load of all customers enrolled in a responsive device program that were deployed at any point during the ERCOT peak demand period or energy emergency alert period; and

(iv) the total number of customers deployed at any point during each interval.

(3) The average total residential load reduction goal is 0.25 (i.e., a 20 percent reduction in load by participating residential customers).

(A) The goal is calculated as a ratio by dividing the load reduced by all responsive device programs during an ERCOT peak demand period by the total amount of demand of all residential customers participating in a responsive device program during that ERCOT peak demand period.

(B) On or before June 30 of each even-numbered year, commission staff will review the data received from ERCOT under paragraph (2) of this subsection to assess the effectiveness of the responsive device programs offered by REPs and whether the average total residential load reduction goal under paragraph (3) of this subsection is being achieved. Commission staff will file a recommendation in Project 56966 on whether the commission should adjust the goal.

(C) The commission will consider commission staff's recommendation under subparagraph (B) of this paragraph and determine whether to update the goal.

(4) For the purposes of this section, an ERCOT peak demand period is an hour with the daily peak value of net load, where net load is calculated as defined in ERCOT protocols.

(e) **Confidentiality.** ERCOT must treat the information submitted by a REP under subsection (d) of this section as protected information as defined by the ERCOT protocols. The requirements of this section neither authorize nor require a REP to publicly disclose proprietary customer information.

(f) **Funding.** A REP may receive funding for a responsive device program through an energy efficiency incentive program established under §25.181 of this title, relating to Energy Efficiency Goal, if the responsive device program complies with the evaluation, measurement, and verification requirements of §25.181 of this title, and if the smart

responsive appliances or devices meet the requirements of subsection (c) of this section. A transmission and distribution utility required to provide an energy efficiency incentive program under PURA §39.905 may use up to 10 percent of its demand response budget for responsive device programs offered by a REP under subsection (c) of this section.

(g) **Additional information.** Commission staff may request additional data from REPs and ERCOT regarding the responsive device program under subsection (c) of this section to assist in evaluating and revising the goal under subsection (d) of this section.

This agency certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §25.186, Goal for Average Total Residential Load Reduction, is hereby adopted with changes to the text as proposed.

Signed at Austin, Texas the 12th **day of** December **2024.**

PUBLIC UTILITY COMMISSION OF TEXAS

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