



## **Filing Receipt**

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**Control Number - 57172**

**Item Number - 95**

**SOAH DOCKET NO. 473-25-05322  
PUC DOCKET NO. 57172**

<b>COMMISSION STAFF’S PETITION TO</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>ESTABLISH A SECONDARY CAP ON</b>	<b>§</b>	
<b>PERFORMANCE BONUSES UNDER</b>	<b>§</b>	<b>OF</b>
<b>16 TAC § 25.182(e) FOR THE 2024</b>	<b>§</b>	
<b>PROGRAM YEAR</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**OFFICE OF PUBLIC UTILITY COUNSEL’S PROPOSED  
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

Pursuant to State Office of Administrative Hearings (“SOAH”) Order No. 3, the Office of Public Utility Counsel offers the following Findings of Fact, Conclusions of Law, and Ordering Paragraphs for consideration. These proposed findings and conclusions are not exhaustive, but each one presented below should be included in the Proposal for Decision:

**Proposed Findings of Fact**

1. The price of electricity in Texas during the summer months of 2023 was anomalously high.
2. The avoided cost of energy for Program Year (“PY”) 2024 was the highest on record.
3. To stay under the cost cap for a subsequent program year, a utility may be encouraged to reduce program expenditures in the next program year to fully claim a prior year’s energy efficiency performance bonus.
4. The Commission has previously found that good cause exists in situations where the avoided cost of energy was anomalously high.

**Proposed Conclusions of Law**

1. The primary purpose of the energy efficiency performance bonus is to reward achievements, not happenstance.

2. Calculation of any energy efficiency bonus for a given PY is based in part on the avoided costs of energy as calculated in 16 TAC § 25.182(d)(3).
3. Without adjustment, the avoided cost of energy for PY 2024 and the resulting energy efficiency performance bonuses would not accurately reflect the success of energy efficiency programs for PY 2024.
4. The circumstances of energy prices during the summer of 2023 justify a good cause exception under 16 TAC § 25.3(b) to place a cap on energy efficiency performance bonuses pursuant to 16 TAC § 25.182(e)(3) for PY 2024.
5. Imposing a one-time cap on energy efficiency performance bonuses equal to 25% of a given utility's overall spending is in the public interest.


#### **Proposed Ordering Paragraphs**

1. Staff's request for a good cause exception to place a 25% cap on performance bonuses for PY 2024 is granted, such that a utility's 2025 Energy Efficiency Cost Recovery Factor filings' performance bonus calculated under 16 TAC § 25.182(e) shall be subject to a secondary cap equivalent to 25% of the utility's overall spend for PY 2024.
2. Energy efficiency performance bonuses awarded for PY 2024 to a given utility shall not exceed 25% of the sum of:
  - a. Actual program expenditures for PY 2024;
  - b. Evaluation, measurement and verification costs for PY2024;
  - c. Performance bonus calculated for PY2024; and
  - d. Rate case costs as applicable.

Date: April 29, 2024

Respectfully submitted,

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**ATTORNEYS FOR THE**  
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**CERTIFICATE OF SERVICE**  
SOAH DOCKET NO. 473-25-05322  
PUC DOCKET NO. 57172

I hereby certify that a copy of the foregoing document was served on all parties of record in this proceeding on this 29<sup>th</sup> day of April 2025 by facsimile, electronic mail, and/or first class, U.S. mail.



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Connor Drysdale