Filing Receipt

Filing Date - 2025-03-20 04:44:43 PM

Control Number - 57743

Item Number - 13

SIERRA CLUB
LONE STAR CHAPTER

Request for Comments: Project No . 57743 - *Review of Energy Efficiency substantive rules*

Comments of the Lone Star Chapter of the Sierra Club
Cyrus Reed, Legislative and Conservation Director, Sierra Club, Lone Star Chapter, cyrus.reed@
March 20th, 2025

Introduction

The Sierra Club applauds and commends the Public Utility Commission of Texas for opening up a review of energy efficiency substantive rules under Project 57743. As announced at a recent EEIP meeting, the intent of this project is to seek stakeholder feedback on three separate rules related to energy efficiency goals and programs at the Commission, and at some point create a more formal rulemaking procedure, with final action by the Commission by the end of 2025.

Sierra Club has been a proponent for many years of expanding the required utility energy efficiency programs in a cost-effective manner. Indeed after years of inaction by the Commission, in 2022, we filed a petition for rulemaking in PUCT Docket No. 53971 that can provide a useful starting point for reevaluating the Commission's current rules, including cost-effectiveness, goals, the performance bonus structure, and permanently adjusting the performance bonus cap.[1] Although the Commission declined to proceed with that petition, the new docket - 57743 - provides the opportunity to address these issues in a more comprehensive manner, and we are pleased with the Commission's efforts to do so. Today's comments should be seen as the beginning of what will hopefully be a productive discussion between utilities, retail electric providers, electric consumers, advocacy organizations, the Commission and state leadership. We welcome this long overdue discussion.

[1] *See* PUCT Docket No. 53971, *Petition of Lone Star Chapter of the Sierra Club to Initiate Rulemaking to Amend PUC Subst. 25.181 (Energy Efficiency Goal) and 25.182 (Energy Efficiency Cost Recovery Factor)* (filed Aug. 17, 2022).

It is worth noting that while we are offering our thoughts on the specific questions below it is difficult to separate issues so it will be very important to have a specific commission proposal in its entirety to comment on. As an example, many of the utilities have in previous comment periods been advocating for the removal of performance bonuses from counting against the cost-effectiveness test - because in theory energy efficiency projects could be cost-effective but for the consideration of these bonuses. It is reasonable to judge energy efficiency programs (incentives, administration and other program costs) on their own merit without the cost of performance bonuses in Sierra Club's view, but without knowing if there would be limits on those performance bonuses - such as a cap on the total program cost it is difficult to judge such a proposal. Thus ultimately we will need to consider the programs as a whole - definitions, cost-effectiveness, demand and energy savings goal, cost caps, and performance bonuses.

Specific Comments

Commission Staff requests feedback on the following:

1. Proposed definitions:
a. Low Income: Residential households with income levels at or under 80% of the calculated area median income.

(Note: The US Department of Housing and Urban Development (HUD) calculates the Median Family Income (also known as Area Median Income (AM[)) for each county or multicounty metro area each year. The AMI measures the typical income and cost of living in a geographic area. HUD updates AMI for inflation using the Consumer Price Index.)

The Sierra Club is supportive of this definition of low-income residential households. We believe this is a superior definition to ones based on a federal level of poverty as it is more locational specific. In addition, many of the other social service programs are utilizing AMI as the eligibility criteria. That being said, we would support expanding the definition to a categorical eligibility language for low-income programs for ease of qualification purposes. Tying the eligibility to some other federal or state low-income programs will make it simpler for utilities to confirm eligibility for this program.

As we made clear in our previous petition for rulemaking, we are also supportive of expanding the budget for the low-income programs to meet the increase in eligible customers. Currently, only 10% of the budget for energy efficiency programs is required to be spent on low-income programs. While it is not part of the current request for comments, we hope the Commission will consider an expansion of that requirement, such as doubling the amount earmarked for

low-income programs. With a reported 40% of Texans classified as suffering from energy burden, expanding these programs would be a cost-effective way to serve more Texans, especially with a more expansive definition of low-income.

b. Hard-to-Reach: Rural area where the utility is unable to administer energy efficiency programs in a manner similar to other areas served.

We find the proposed definition for hard-to-reach programs to be too simplistic. "Rural" is a subjective term since even in urban areas like Houston or Dallas there can be more "rural" areas. It is also unclear whether the definition is meant to include both residential and commercial entities and we believe it should. While we do not object to including the word "rural" we worry the definition is too limited. There are other populations that have traditionally been more difficult to serve, i.e. "hard to reach," including some small businesses, renters in multifamily housing, seniors, and customers who speak English as a second language. Broadening this definition to include these populations would allow for utilities to develop targeted strategies to address energy savings and peak demand.

*Proposed Sierra Club definition: "**Rural or other areas or customers, including sole-proprietory small businesses, renters in multifamily housing, seniors and customers with limited English proficiency, where the utility is unable to administer energy efficiency programs in a manner similar to other areas or customers served**."*

2. 16 Texas Administrative Code (TAC) § 25.181(d) defines - **"Cost-effectiveness** ***standard: An energy efficiency program is deemed to be cost-effective if the cost of the program to the utility is less than or equal to the benefits of the program." Also, the "cost of a program includes the cost of incentives, EM&V contractor costs, any shareholder bonus awarded to the utility, and actual or allocated research and development and administrative costs. The benefits Of the program consist Of the value of the demand reductions and energy savings, measured in accordance with the avoided costs prescribed in this subsection. The present value Of the program benefits shall be calculated over the projected life Of the measures installed or implemented under the program. „***

a. What changes should be considered when calculating cost-effectiveness?

i. Discuss changes, if any, that may be warranted to elements of the cost calculation, including measurement and allocation of costs.

ii. Discuss changes, if any, that may be warranted to elements of the benefits determination, including measurement and avoided costs.

Cost-effectiveness is one of the most important measures to assure the continued benefit of the programs to ratepayers, all electric customers and the grid as a whole. The Commission has relied on a utility-cost test that is simplistic in its approach and undervalues the true value of energy efficiency. The main component of this cost-effectiveness test is to measure the benefits from avoided costs from demand reduction and energy savings due to the measures compared to the actual dollar cost of the programs, which include the *cost of incentives, EM&V contractor costs, any shareholder bonus awarded to the utility, and actual or allocated research and development and administrative costs.*

Sierra Club is in favor of adjusting both the benefit calculation, which flows entirely from an avoided cost of energy based on the value of a new peaker plant as calculated each year by the Commission, and what goes into the costs.

On the benefit calculation, we first would support moving the calculation timeframe earlier than November 1, which provides literally one month for utilities to adjust their planning and budgets for the upcoming year. Essentially utilities are planning one to two years into the future for their plans and programs when they submit their reports on April 1 or May 1, and their EECRFs by May 1 or June 1. Utilities need time to review changes to the avoided costs so they can adjust their programs accordingly but they have to "guess" what the avoided cost calculation will be.

The bigger issue, however, is that the avoided cost of capacity is based only on the cost of a new gas turbine and again, is determined on November 1 of each year. But those costs seem outdated since they are backward looking, not reflecting increased costs due to inflation and supply issues. As an example the current avoided cost of capital of $863 per kW is not reflective of current cost estimates, which thus decreases the value of energy efficiency.

The current cost calculations also do not reflect the changing value of energy itself, which in Texas's energy-only market differs widely by region and by time of use. Yet there is no consideration in avoiding the cost of these changing prices. At least for the ERCOT utilities, some consideration of real-time energy value could be very helpful to measures based on reducing peak demand. The avoided cost calculations also does not consider other costs like ancillary services or congestion costs that can be lessened by energy efficiency programs.

Additionally, Sierra Club would support - as we suggested in our rulemaking petition - the inclusion of the avoided cost of transmission and distribution from
targeted efficiency and other demand side efforts. These efforts reduce congestion on the system and avoid the need for further spending on distribution and transmission investments.

Finally, we would note that currently the Energy Systems Laboratory at Texas A & M TEEKS is charged with assessing the air quality benefits of building codes, renewable energy and energy efficiency. We would be in favor of adding a factor that utilities could utilize if their programs helped reduce air pollution in areas with high levels of smog, PM 2.5 and other pollutants that impact public health and economic development. Many areas of Texas are currently considered non-attainment for groundlevel ozone and reducing pollution through distributed energy resources and energy efficiency can be an important benefit to all Texans.

In terms of what goes into "cost" we believe that the present calculation which includes the EM & V costs imposed on all utilities and the performance bonuses - akin to profits for the utilities - should be removed from the cost component. In other words, when assessing the cost-effectiveness of energy efficiency programs, the bonuses and EM&V that utilities can charge ratepayers should not count against the cost-effectiveness of the programs themselves, since that cost is not part of the program administration or implementation. However, in advocating that performance bonuses and EM&V costs be removed from the calculation, that does not mean that Sierra Club does not think there should be limits on the performance bonuses themselves, which we believe will be addressed later in the process of this rules review. In particular, we would support only giving performance bonuses that exceed both their demand reduction and energy savings goals, and also would support a limit on the size of the performance bonus such as 15 to 30% of the total cost of the programs.

B. What is the appropriate level at which to compare costs to benefits?

We support considering benefits at the portfolio level, perhaps divided by sector (industrial/commercial, residential, hard-to-reach) to assure customers that their ratepayer funds are being well spent.

I. What are the benefits of considering sector-level cost-effectiveness?

Sierra Club supports changing the cost-effectiveness test based on each individual program to one based on a portfolio of all commercial programs and a portfolio of all residential programs. In other words we would support a sector level approach as opposed to a program by program approach. This would give utilities more flexibility, the ability to try new programs, including

pilot programs without having to worry that an individual program must be deemed cost-effective. While pilot programs can be implemented without having to pass a cost-effectiveness test they are limited to a single year, making utilities wary of trying new programs. Additionally, the Technical Reference Manual can limit the ability of utilities to pilot and implement new technologies in the market. Sierra Club is supportive of making sure programs are cost-effective, but utilities need flexibility to be innovative and consider measures that may have differing timelines to become mature and implemented. Moving to a portfolio approach rather than a program-by-program approach can help resolve this issue.

Conclusions

The Sierra Club is supportive of the effort of the Commission to review all rules related to energy efficiency and consider future rulemaking. We believe this beginning effort focused on definitions and cost-effectiveness will enhance the programs.

We support the proposed low-income definition but believe that language could be added to make it clear that utilities can use program eligibility criteria for other common low-income programs to reach more Texans. We would support a change in the required budget along wit this flexibility.

We believe the proposed hard-to-reach definition focused on rural areas is too narrow and have suggested a more robust definition.

In terms of cost-effectiveness, we would support moving to a portfolio approach rather than a program-by-program approach. We would also support expanding the benefits beyond simply energy reduction and energy savings based on the avoided cost of new generation and would suggest a more forward-looking avoided cost approach and the use of real-time energy cost data for energy savings. Finally, we think that adding the avoided cost of transmission and distribution and the air quality benefits of energy efficiency should be considered. In what is included in measuring the costs, we believe that performance bonuses and EM&V costs should be removed from consideration. In supporting this change, we would not want to establish limits on the size of performance bonuses, but we don't think it makes sense to judge energy efficiency program cost-effectiveness based on a policy on utility performance bonuses.