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PROJECT NO. 57743

COMMISSION STAFF'S REQUEST FOR COMMENTS REGARDING THE REVIEW OF ENERGY EFFICIENCY SUBSTANTIVE RULES	**§ § § §**	**BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS**

JOINT UTILITIES' RESPONSE
<u>TO COMMISSION STAFF'S REQUEST FOR COMMENTS</u>

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

AEP Texas, Inc., CenterPoint Energy Houston Electric, LLC, El Paso Electric Company, Entergy Texas, Inc., Oncor Electric Delivery Company LLC, Southwestern Electric Power Company, Southwestern Public Service Company, and Texas-New Mexico Power Company (collectively, "Joint Utilities") respectfully submit this response to the Public Utility Commission of Texas ("Commission") Staff's request for comments filed February 24, 2025, in this Project.

I. <u>RESPONSE</u>

In its request for comments, Staff requested feedback on two items related to 16 Tex. Admin. Code §§ 25.181, .182, and .183 (the "Energy Efficiency Rules"). The Joint Utilities' responses are provided below.

Question 1. Proposed definitions:

a. **<u>Low Income</u>: Residential households with income levels at or under 80% of the calculated area median income.**
b. **<u>Hard-to-Reach</u>: Rural area where the utility is unable to administer energy efficiency programs in a manner similar to other areas served.**

Response:

The Joint Utilities support efforts expanding and improving customer access to energy efficiency programs and appreciate the opportunity to comment on the proposed definitions for "Low Income" and "Hard-to-Reach" customers. Clearly defining these terms will allow the Joint Utilities to more effectively identify and target eligible customers for participation. Creating structure to ensure the targeted populations are properly served, while maintaining a flexible definition which captures the diverse customer populations and needs across the state, should be a priority of these definition modifications. The Joint Utilities propose the definitions below to accomplish the following overarching goals:

- Treat low income customers as a sub-set of hard-to-reach populations;
- Create additional participation opportunities for low-to-moderate income households; and
- Establish a commercial hard-to-reach customer class.

The Joint Utilities recommend expanding the proposed definitions to enable program administrators to better serve low income and hard-to-reach customers. The Joint Utilities' proposed definitions for each term are set forth below:

1. **Low Income:** Residential households that, due to economic reasons, are not receiving sufficient access to energy efficiency services. This includes single family homes, as well as individually and master-metered multifamily properties. These households are a subset of hard-to-reach customers and qualify as low income under any of following criteria:
   a. Residential households with income levels at or under 80% of the calculated area median income;
   b. Residential households with an annual income at or below 200% of the federal poverty guidelines;
   c. Residential households who qualify for State or Federal assistance programs, including:
      i. Supplemental Nutrition Assistance Program (SNAP) (Food Stamps)
      ii. Medicaid
      iii. Supplemental Security Income (SSI)
      iv. Federal Public Housing Assistance (FPHA)
      v. Veterans Pension or Survivors Benefit Programs
      vi. Health Benefit Coverage under Child Health Plan (CHIP)
      vii. Federal Public Housing Assistance
      viii. Low-Income Energy Assistance Program (LIHEAP)
      ix. National School Lunch Program - Free Lunch Program
      x. Temporary Assistance for Needy Families (TANF)
      xi. Bureau of Indian Affairs (BIA) General Assistance
      xii. Tribal Temporary Assistance for Needy Families (Tribal TANF)

xiii. Food Distribution Program on Indian Reservations (FDPIR)

xiv. Tribal Head Start (only households that meet the income qualifying standard)

xv. Low Rent Public Housing Program (description accessible through https://www.txtha.org)

xvi. Section 8 Housing Choice Voucher Program (description accessible through https://www.txtha.org)

xvii. Section 811 Project Rental Assistance Program (description accessible through https://www.tdhca.texas.gov);

d. Residential households located in the Housing and Urban Development Qualified Census Tracts or the Low to Moderate Income Summary Data (LMISD); or

e. Other customers designated by the Commission, and written into the Texas Technical Reference Manual (TRM), who are eligible to receive electric utility low income program funding.

2. **Hard-to-Reach**: Residential and Commercial customers who do not have adequate access to energy efficiency program services due to geographic, economic, and / or market barriers. These customers may include:

   a. Low income customers;

   b. Customers who encounter challenges due to limited infrastructure and/or fewer service providers, making it difficult to access energy efficiency programs; or

   c. Other customers designated by the Commission, and written into the Texas TRM, who are eligible to receive electric utility hard-to-reach program funding.

Question 2. [see preface to questions in filing]

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.

Response:

The Joint Utilities understand that cost-effectiveness is a complex issue, and the underlying calculations used to determine it should be based on the state's priorities. Currently, the Public Utility Regulatory Act, Section 39.905(a) states in part:

"It is the goal of the legislature that…

(2) all customers, in all customer classes, will have a choice of and access to energy efficiency alternatives and other choices from the market that allow each customer to **reduce energy consumption, summer and winter peak demand, or energy costs**;" (emphasis added).

It's clear that the legislature intends for utility programs to reduce peak demand, energy use, and customer bills. Therefore, the Joint Utilities assert that the current Program Administrator Cost Test (Utility Cost Test) is still the appropriate method of measuring the success of utility energy efficiency programs. If legislative priorities change, the Joint Utilities welcome the opportunity to create a Texas-specific cost test that includes other State priorities.

Although the cost test itself is appropriate, the Joint Utilities believe there are opportunities for improving the test to better serve our customers, such as the following:

1. **Cost-effectiveness should be measured at the portfolio level**. The cost-effectiveness standard is implemented to protect customers from wasteful spending on ineffective efforts. At the same time, the evolving Texas electric market and new energy efficiency codes and standards are requiring program administrators to test new ideas, concepts, and programs to ensure long-term portfolio viability. Leaving the cost-effectiveness standard at the program level promotes the status quo. Moving cost-effectiveness to the portfolio level, however, provides customer protection while also giving program administrators the ability to test and market new programs. Portfolio-level cost-effectiveness testing, combined with State Evaluator oversight, and annual reporting and reconciliation, would help maximize value for customers.
    a. If portfolio-level cost-effectiveness is not under consideration, the Joint Utilities recommend measuring cost-effectiveness at the sector level (meaning one evaluation for all commercial sector customers and one evaluation for all residential sector customers).
    b. If cost-effectiveness remains at the program level, Joint Utilities recommend the following:

i. Market transformation programs have up to five years to achieve cost-effectiveness. Cost-effectiveness could be calculated as the average over five years, to ensure programs are improving.

ii. The Energy Efficiency Rules should be revised to ensure that a market transformation program that does not achieve cost-effectiveness during the five-year grace period will not negatively impact cost recovery or performance incentive eligibility.

2. **The utility performance incentive should not be included in program costs.** The utility performance incentive is awarded to utilities for exceeding the statutory goal in the previous year. Although the costs are borne by the customer, they are not direct, operational costs and therefore, shouldn't prevent a portfolio from achieving cost-effectiveness. If the goal of including the performance incentive in program costs is to reduce the current year performance incentive, we recommend removing it from program costs, and to instead include it as a line item in the current year performance incentive calculation. This would provide the opportunity to spend additional funding on programs, while remaining under the cost caps.

3. **Avoided cost determination should be modified.** Although the bases for determining the avoided energy and capacity costs are appropriate, the Joint Utilities recommend the following changes to the calculations:

   a. Smooth out annual avoided energy cost fluctuations by changing the averaging period from two years to five. This change provides stability in program designs, which benefit utilities, service providers, and customers. While the rule already mitigates significant single-year fluctuations by using two years in the avoided cost calculation, the use of five years would provide further stability benefits for program design purposes. By reducing year-to-year cost fluctuation, utilities can better plan upcoming portfolios without making significant financial changes. Additionally, utilities can maintain program incentive levels and create a better experience for our service providers and customers. Finally, it would limit the impact of annual cost fluctuations on the utility performance incentive.

   b. Currently, avoided costs are determined in November of each year and become effective in January of the upcoming year. This gives little time for portfolio planning and ensuring cost effectiveness. The Joint Utilities recommend making the effective date of the avoided costs not in the upcoming year, but one year out. For example, avoided costs published in November 2025 would be effective in January 2027.

4. **If cost-effectiveness remains at the program level, Low Income and Hard-to-Reach programs should be exempt from cost-effectiveness requirements.** Currently, Low Income programs are evaluated for cost-effectiveness based on the Savings-to-Investment ratio and Hard-to-Reach programs are evaluated based on the Utility Cost Test. These restrictions prevent the utilities from being able to pay for home repairs and other energy saving upgrades that are not currently assigned a demand reduction or energy savings credit (roof repairs, major air infiltration issues, and similar situations). If cost-effectiveness restrictions were removed, the utilities would still be required to achieve savings at a reasonable cost to meet the portfolio-wide cost-effectiveness standard while offering up additional opportunities to help better serve customers who would not otherwise receive basic home repairs or efficiency upgrades resulting in significant demand reduction for the grid and energy and bill savings for the customers.

II. CONCLUSION

The proposed rule changes discussed above will ensure the long-term growth and viability of utility portfolios, while improving the customer and service provider experience. Additionally, the revisions provide stability in program planning and ensure customers receive maximum value from their program funding.

The Energy Efficiency Rules are complex and have significant interactive impacts. As changes are made to specific sections, the impact of those changes on other sections of the Energy Efficiency Rules should be carefully considered to avoid unintended consequences.

The Joint Utilities respectfully request that the Commission consider and adopt the above recommendations.

Respectfully submitted,

Oncor Electric Delivery Company LLC
/s/ Ritchie J. Sturgeon
Ritchie J. Sturgeon
State Bar No. 24068574
Oncor Electric Delivery Company LLC
1616 Woodall Rodgers Freeway
Dallas, Texas 75202-1234
Telephone: (214) 486-6345
Facsimile: (214) 486-3221
ritchie.sturgeon@oncor.com

ON BEHALF OF JOINT UTILITIES