

By: Turner of Harris

H.B. No. 1604

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to this state's goal for energy efficiency, including load  
3 management and demand response in the Electric Reliability Council  
4 of Texas.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 39.905, Utilities Code, is amended by  
7 amending Subsection (a) and adding Subsections (b-5), (b-6), (b-7),  
8 (b-8), (b-9), (b-10), (b-11), (b-12), (b-13), and (b-14) to read as  
9 follows:

10 (a) It is the goal of the legislature that:

11 (1) electric utilities will administer energy  
12 efficiency incentive programs in a market-neutral,  
13 nondiscriminatory manner but will not offer underlying competitive  
14 services;

15 (2) all customers, in all customer classes, will have  
16 a choice of and access to energy efficiency alternatives and other  
17 choices from the market, including load management programs, that  
18 allow each customer to reduce energy consumption, peak demand, or  
19 energy costs;

20 (3) each electric utility will provide, through  
21 market-based standard offer programs or limited, targeted,  
22 market-transformation programs, incentives sufficient for retail  
23 electric providers and competitive energy service providers to  
24 acquire additional cost-effective energy efficiency for

1 residential and commercial customers equivalent to at least:

2 (A) 10 percent of the electric utility's annual  
3 growth in demand of residential and commercial customers by  
4 December 31, 2007;

5 (B) 15 percent of the electric utility's annual  
6 growth in demand of residential and commercial customers by  
7 December 31, 2008, provided that the electric utility's program  
8 expenditures for 2008 funding may not be greater than 75 percent  
9 above the utility's program budget for 2007 for residential and  
10 commercial customers, as included in the April 1, 2006, filing; and

11 (C) 20 percent of the electric utility's annual  
12 growth in demand of residential and commercial customers by  
13 December 31, 2009, provided that the electric utility's program  
14 expenditures for 2009 funding may not be greater than 150 percent  
15 above the utility's program budget for 2007 for residential and  
16 commercial customers, as included in the April 1, 2006, filing;

17 (4) each electric utility in the ERCOT region shall  
18 use its best efforts to encourage and facilitate the involvement of  
19 the region's retail electric providers and third-party load  
20 aggregators in the delivery of efficiency programs and load  
21 management [~~demand response~~] programs under this section;

22 (5) retail electric providers in the ERCOT region, and  
23 electric utilities outside of the ERCOT region, shall provide  
24 customers with energy efficiency educational materials; and

25 (6) by January 1, 2015, each electric utility in the  
26 ERCOT region, through voluntary load management agreements with  
27 retail electric providers or third-party load aggregators, shall

1 use load management in an amount equal to at least two percent of  
2 the electric utility's projected load-proportionate share of  
3 ERCOT's peak demand, other than demand attributable to  
4 transmission-level industrial customers [~~notwithstanding~~  
5 ~~Subsection (a)(3), electric utilities shall continue to make~~  
6 ~~available, at 2007 funding and participation levels, any load~~  
7 ~~management standard offer programs developed for industrial~~  
8 ~~customers and implemented prior to May 1, 2007)].~~

9 (b-5) The commission shall adopt rules and procedures to  
10 ensure that electric utilities in the ERCOT region can provide,  
11 through market-based programs, incentives sufficient for retail  
12 electric providers and competitive load aggregators to acquire  
13 cost-effective load management equivalent to at least two percent  
14 of each utility's peak demand, other than demand attributable to  
15 transmission-level industrial customers, by January 1, 2015.

16 (b-6) The commission shall adopt rules to ensure the  
17 continued cost-effectiveness of load management under this  
18 section. At a minimum, the rules must provide:

19 (1) for cost-effectiveness to be measured in terms of  
20 avoided demand costs of peak generation and transmission as  
21 determined under the commission's efficiency programs; and

22 (2) for cost-effectiveness and avoided demand cost to  
23 be recalculated at least once every two years.

24 (b-7) The commission shall develop appropriate measurement  
25 and verification procedures.

26 (b-8) The commission shall adopt rules to ensure that a  
27 utility designs programs so that the utility's load management

1 resources, including procedures for aggregating resources and  
2 monitoring and verification of customer participation as  
3 resources, are provided from customers of all classes, other than  
4 transmission-level industrial customers.

5 (b-9) Any additional load reduction acquired because of a  
6 utility's load management program may be counted toward the  
7 utility's earned bonus under this chapter, but not toward the  
8 satisfaction of the legislature's goals under Subsection (a)(3).

9 (b-10) Each utility shall develop procedures to enable the  
10 utility to call on load management resources during periods of peak  
11 demand, peak transmission or distribution congestion, or emergency  
12 in the utility's service territory.

13 (b-11) The commission shall adopt rules to ensure that a  
14 utility's load management resources are also eligible to provide  
15 ancillary services to ERCOT in the event of a system-wide peak in  
16 demand, a system-level congestion, or another emergency.

17 (b-12) A utility may not enter into a contract directly with  
18 an end-use customer to provide load management services, unless the  
19 commission determines that the service is not a competitive energy  
20 service as defined by commission rule.

21 (b-13) In addition to existing demand response programs,  
22 ERCOT shall establish a summer system peak reduction program in  
23 which ERCOT may restrict service to participating loads between  
24 June 1 and September 30 of each year. The summer system peak  
25 reduction program shall consist of cost-effective demand response  
26 that:

27 (1) produces avoided demand cost of:

1           (A) at least two percent of ERCOT's projected  
2 peak load during the period specified by this subsection by  
3 September 30, 2010; and

4           (B) at least five percent of ERCOT's projected  
5 peak load during the period specified by this subsection by  
6 September 30, 2015;

7           (2) increases ERCOT's total avoided demand cost during  
8 the period specified by this subsection each year until September  
9 30, 2015;

10           (3) makes participating loads available for  
11 restriction by ERCOT during the expected peak hours, as determined  
12 by ERCOT, in the period specified by this subsection; and

13           (4) ensures that a participating resource:

14           (A) may not be restricted more than eight times  
15 per year;

16           (B) may not be subject to a restriction that  
17 lasts for more than three hours;

18           (C) receives at least two hours notice before the  
19 imposition of a restriction under this subsection;

20           (D) is eligible to provide supplemental services  
21 to utilities to satisfy the requirements of Subsection (a)(6); and

22           (E) receives an additional payment for a  
23 voluntary load restriction in excess of the limits specified by  
24 this subsection.

25           (b-14) ERCOT shall incorporate demand response resources  
26 into its ancillary service markets and other programs by:

27           (1) establishing a minimum goal of 50 percent

1 participation of demand response resources in ancillary service  
2 markets, where feasible, including non-spin reserves and ancillary  
3 service relating to the integration of wind energy and other  
4 renewable energy sources;

5         (2) expanding participation of demand response  
6 resources in handling changes in load capacity;

7         (3) not later than two years after the implementation  
8 of a nodal market system, establishing a program to allow demand to  
9 be bid into the energy market on a similar basis as generation, to  
10 mitigate the exercise of market power;

11         (4) eliminating all conditions of participation in  
12 ERCOT ancillary service and reliability markets, except for those  
13 conditions that are required to ensure system reliability to  
14 facilitate the participation of smaller loads;

15         (5) working with municipally owned utilities and  
16 electric cooperatives that have not opted into competition to allow  
17 customers within the municipally owned utility's or electric  
18 cooperative's service areas to participate in statewide demand  
19 response programs; and

20         (6) allowing demand response resources to participate  
21 in utility load management programs if the demand response resource  
22 can meet the performance requirements of each program.

23         SECTION 2. This Act takes effect September 1, 2009.