

By: Van de Putte

S.B. No. 601

A BILL TO BE ENTITLED

AN ACT

relating to the state goal for energy efficiency.

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

SECTION 1. SECTION 39.905, Utilities Code, is amended to read as follows:

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

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

(2) electric utilities will help build an infrastructure of trained and qualified energy services providers such that all customers, in all customer classes, will have a choice of and access to energy efficiency alternatives and other choices from the market, including demand-side renewable energy systems, that allow each customer to reduce energy consumption, peak demand, or energy costs;

(3) each electric utility will annually provide, through a cost-effective portfolio of market-based standard offer programs or limited, targeted, market-transformation programs, incentives sufficient for retail electric providers and competitive energy service providers to acquire additional ~~[cost-effective]~~ energy efficiency for ~~[residential and commercial]~~ customers, other than transmission-level industrial

1 facilities, equivalent to at least:

2 (A) ~~[10]~~ 0.5 percent of the electric utility's
3 ~~[annual growth in]~~ peak demand, other than demand by
4 transmission-level industrial facilities, [of residential and
5 commercial customers] by January 1, 2012 ~~[December 31, 2007]~~; and

6 (B) ~~[15]~~ 1 percent of the electric utility's
7 ~~[annual growth in]~~ peak demand, other than demand by
8 transmission-level industrial facilities, [of residential and
9 commercial customers] by January 1, 2015; ~~[December 31, 2008,
10 ~~provided that the electric utility's program expenditures for 2008~~
11 ~~funding may not be greater than 75 percent above the utility's~~
12 ~~program budget for 2007 for residential and commercial customers,~~
13 ~~as included in the April 1, 2006, filing, and~~~~

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

20 (4) each utility will provide, as part of its overall
21 portfolio of efficiency programs, sufficient incentives for its
22 load-proportionate share of 200 megawatts of demand-side renewable
23 energy systems by January 1, 2015; in this section, a "demand-side
24 renewable energy system" includes "distributed renewable
25 generation" as defined by Section 39.916 as well as any system that
26 reduces the need for energy consumption using renewable energy
27 technology or natural mechanisms of the environment, such as

1 geothermal heat-pumps and solar water heaters.

2 ~~[(4)]~~ (5) each electric utility in the ERCOT region
3 shall ~~[use its best efforts to encourage and]~~ create specific
4 programs at a scale sufficient to facilitate the involvement of the
5 region's retail electric providers in the mass marketing and
6 widespread delivery of efficiency programs and demand-side
7 renewable ~~[demand-response]~~ programs under this section; and

8 ~~[(5)]~~ (6) retail electric providers in the ERCOT
9 region, and electric utilities outside of the ERCOT region, shall
10 provide customers with energy efficiency educational materials;
11 and

12 ~~[(6)]~~ (7) notwithstanding Subsection (a)(3), electric
13 utilities shall continue to make available, at 2007 funding and
14 participation levels, any load management standard offer programs
15 developed for industrial customers and implemented prior to May 1,
16 2007.

17 (b) The commission shall provide oversight and adopt rules
18 and procedures to ensure that the utilities can achieve the goal of
19 this section, including:

20 (1) establishing an energy efficiency cost recovery
21 factor for ensuring timely and reasonable cost recovery for utility
22 expenditures made to satisfy the goal of this section;

23 (2) establishing an incentive under Section 36.204 to
24 reward utilities administering programs under this section that
25 exceed the minimum goals established by this section, sufficient to
26 mitigate the impact of any lost revenues associated with the
27 success of efficiency-related programs required by this section;

1 (3) providing a utility that is unable to establish an
2 energy efficiency cost recovery factor in a timely manner due to a
3 rate freeze with a mechanism to enable the utility to:

4 (A) defer the costs of complying with this
5 section; and

6 (B) recover the deferred costs through an energy
7 efficiency cost recovery factor on the expiration of the rate
8 freeze period;

9 (4) ensuring that the costs associated with programs
10 provided under this section are borne by the customer classes that
11 receive the services under the programs; ~~and~~

12 (5) ensuring the program rules encourage the value of
13 the incentives to be passed on to the end-use customer;

14 (6) ensuring programs operate at sufficient scale to:

15 (A) reduce the rate of free ridership;

16 (B) achieve the goal that all eligible customers
17 have access to program opportunities; and

18 (C) allow retail electric providers and
19 competitive energy service providers to successfully undertake the
20 mass marking and widespread delivery of the programs required by
21 this section to customers;

22 (7) establishing a statewide market transformation
23 program to achieve, at a minimum, the following goals for
24 demand-side renewable systems:

25 (A) 50 MW of demand-side renewable systems by
26 January 1, 2012; and

27 (B) 200 MW of demand-side renewable systems by

1 January 1, 2015;

2 (8) ensuring that demand-side renewable energy
3 programs under this section encourage the utilities, through retail
4 electric providers, to pass on the value of the incentives to
5 end-use consumers; and

6 (9) ensuring that efficiency and demand-side
7 renewable energy programs under this section lead to a significant
8 and continuing reduction in demand or energy consumption, or costs,
9 by using a ten-year measure life as the basis for calculating the
10 contribution of either particular measures or programs toward the
11 satisfaction of the goal of this section.

12 (b-1) The energy efficiency cost recovery factor under
13 Subsection (b)(1) may not result in an over-recovery of costs but
14 may be adjusted each year to change rates to enable utilities to
15 match revenues against energy efficiency costs and any incentives
16 to which they are granted. The factor shall be adjusted to reflect
17 any over-collection or under-collection of energy efficiency cost
18 recovery revenues in previous years.

19 ~~(b-2) The commission shall conduct a study, to be funded by~~
20 ~~electric utilities, regarding cost-effective energy efficiency in~~
21 ~~this state. Not later than January 15, 2009, the commission shall~~
22 ~~submit to the legislature a report regarding the commission's~~
23 ~~findings that:~~

24 ~~(1) considers the technical, economic, and achievable~~
25 ~~potential, and natural occurrence of energy efficiency in this~~
26 ~~state in terms of kilowatts and kilowatt hours for each element,~~

27 ~~(2) determines the amount of savings that is~~

1 ~~achievable through utility programs in compliance with commission~~
2 ~~rules;~~

3 ~~(3) recommends whether:~~

4 ~~(A) utility funding of energy efficiency in areas~~
5 ~~of the state with competitive retail electric service should~~
6 ~~continue;~~

7 ~~(B) energy efficiency in areas with competitive~~
8 ~~retail electric service is best provided by the competitive market;~~
9 ~~and~~

10 ~~(C) utilities should fund education programs to~~
11 ~~be conducted by the commission regarding the provision of energy~~
12 ~~efficiency service from the competitive market;~~

13 ~~(4) provides estimates of achievable savings specific~~
14 ~~to each utility service area and each customer class;~~

15 ~~(5) quantifies the costs and rate impacts associated~~
16 ~~with meeting energy efficiency goals;~~

17 ~~(6) determines whether an increase in the goal to 30~~
18 ~~percent of the growth in demand for each utility is achievable by~~
19 ~~December 31, 2010, and whether an increase in the goal to 50 percent~~
20 ~~of the growth in demand for electricity is achievable by December~~
21 ~~31, 2015, by each utility in the service area served through the~~
22 ~~energy efficiency programs described by this section;~~

23 ~~(7) recommends policies designed to promote energy~~
24 ~~efficiency in the areas of the state that are not served by the~~
25 ~~utilities which administer programs under this section; and~~

26 ~~(8) identifies potential barriers to the increased~~
27 ~~participation by retail electric providers in the delivery of~~

~~energy efficiency services to ERCOT customers, and to the increased potential for energy efficiency in ERCOT or in this state generally, including any recommended regulatory or statutory changes to eliminate such barriers or facilitate greater efficiency.~~

~~(b-3)~~ (b-2) Beginning not later than January 1, 2008, the commission, in consultation with the State Energy Conservation Office, annually for a period of five years shall compute and report to ERCOT the projected energy savings and demand impacts for each entity in the ERCOT region that administers standard offer programs, market transformation programs, combined heating and power technology, demand response programs, solar incentive programs, appliance efficiency standards, energy efficiency programs in public buildings, and any other relevant programs that are reasonably anticipated to reduce electricity energy or peak demand or that serve as substitutes for electric supply.

~~(b-4)~~ (b-3) The commission and ERCOT shall develop a method to account for the projected efficiency impacts under Subsection ~~(b-3)~~ (b-2) in ERCOT's annual forecasts of future capacity, demand, and reserves.

(c) A standard offer program provided under Subsection (a)(3) must be neutral with respect to technologies, equipment, and fuels, including thermal, chemical, mechanical, and electrical energy storage technologies.

(d) The commission shall establish a procedure for reviewing and evaluating market-transformation program options described by this subsection and other options. A market

transformation program which is launched as a pilot program shall
not be continued for more than three years without commission
determination that it is an appropriate vehicle to address special
market barriers that prevent or inhibit the measure or behavior
addressed from being delivered or adopted through normal market
channels, under the utility's standard offer programs. ~~In~~
~~evaluating program options, the commission may consider the ability~~
~~of a program option to reduce costs to customers through reduced~~
~~demand, energy savings, and relief of congestion. Utilities may~~
~~choose to implement any program option approved by the commission~~
~~after its evaluation in order to satisfy the goal in Subsection (a),~~
~~including:~~

- ~~(1) energy smart schools;~~
- ~~(2) appliance retirement and recycling;~~
- ~~(3) air conditioning system tune-ups;~~
- ~~(4) the use of trees or other landscaping for energy~~
~~efficiency;~~
- ~~(5) customer energy management and demand response~~
~~programs;~~
- ~~(6) high performance residential and commercial~~
~~buildings that will achieve the levels of energy efficiency~~
~~sufficient to qualify those buildings for federal tax incentives;~~
- ~~(7) programs for customers who rent or lease their~~
~~residence or commercial space;~~
- ~~(8) programs providing energy monitoring equipment to~~
~~customers that enable a customer to better understand the amount,~~
~~price, and time of the customer's energy use;~~

1 ~~(9) energy audit programs for owners and other~~
2 ~~residents of single-family or multifamily residences and for small~~
3 ~~commercial customers,~~

4 ~~(10) net-zero energy new home programs,~~

5 ~~(11) programs for solar thermal, [or] solar electric~~
6 ~~programs,~~

7 ~~(12) programs for using windows and other glazing~~
8 ~~systems, glass doors, and skylights in residential and commercial~~
9 ~~buildings that reduce solar gain by at least 30 percent from the~~
10 ~~level established for the federal Energy Star windows program.~~

11 (e) An electric utility may use money approved by the
12 commission for energy efficiency programs to perform necessary
13 energy efficiency research and development to foster continuous
14 improvement and innovation in the application of energy efficiency
15 technology and energy efficiency program design and
16 implementation. Money the utility uses under this subsection may
17 not exceed 10 percent of the greater of:

18 (1) the amount the commission approved for energy
19 efficiency programs in the utility's most recent full rate
20 proceeding; or

21 (2) the commission-approved expenditures by the
22 utility for energy efficiency in the previous year.

23 (f) Unless funding is provided under Section 39.903, each
24 unbundled transmission and distribution utility shall include in
25 its energy efficiency plan a targeted low-income energy efficiency
26 program as described by Section 39.903(f)(2), and the savings
27 achieved by the program shall count toward the transmission and

1 distribution utility's energy efficiency goal. The commission
 2 shall determine the appropriate level of funding to be allocated to
 3 both targeted and standard offer low-income energy efficiency
 4 programs in each unbundled transmission and distribution utility
 5 service area. The total expenditures for both targeted and
 6 standard offer low-income energy efficiency programs will be based
 7 on the amount spent by the transmission and distribution utility on
 8 the commission's hard-to-reach program in calendar year 2003. This
 9 level of funding for low-income energy efficiency programs shall be
 10 provided from money approved by the commission for the transmission
 11 and distribution utility's energy efficiency programs. The state
 12 agency that administers the federal weatherization assistance
 13 program shall provide reports as required by the commission to
 14 provide the most current information available on energy and peak
 15 demand savings achieved in each transmission and distribution
 16 utility service area.

17 (g) The commission may provide for a good cause exemption to
 18 a utility's liability for an administrative penalty or other
 19 sanction if the utility fails to meet a goal for energy efficiency
 20 under this section and the utility's failure to meet the goal is
 21 caused by one or more factors outside of the utility's control,
 22 including:

23 (1) insufficient demand by retail electric providers
 24 and competitive energy service providers for program incentive
 25 funds made available by the utility through its programs;

26 (2) changes in building energy codes; and

27 (3) changes in government-imposed appliance or

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1 equipment efficiency standards.

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