

BILL ANALYSIS

Senate Research Center

S.B. 1125
By: Carona
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Energy efficiency goals are measured by annual growth and demand, but this metric does not account for increased consumption or demand for energy. Furthermore, electric utilities administer many energy efficiency programs, but are currently prohibited from interacting with customers to provide education for these programs. Lastly, the Load Resource program, a program that allows demand or load to participate in the energy market, is currently limited to industrial classes, prohibiting participation by residential and commercial class customers. S.B. 1125 seeks to change the energy efficiency goal metric from annual growth in demand to peak demand by a utility transition. It also allows residential and commercial class participation in demand response programs while maintaining reliability standards and codifies utility interaction with customers for educational and incentive purposes.

Section 39.905 (Goal for Energy Efficiency), Utilities Code, established goals for electric companies to administer energy efficiency programs. Substantive Rule 25.181 updates these goals to raise an electric utility's energy efficiency goal from 20 percent to 25 percent of annual growth in electric utility's demand of residential and commercial customers by program year 2012, and 30 percent of the electric utility's annual growth in demand by program year 2013. While Section 39.105 (Limitation On Sale of Electricity) prohibits electric utilities from interacting with customers, Substantive Rule 25.181 clarifies that transmission and distribution utilities can interact for standard offer or market transformation program purposes.

So that energy efficiency goals are applied every year for the goal of reducing overall consumption, S.B. 1125 amends Section 39.905, Utilities Code, and phases in the peak demand transitions on a utility-by-utility basis so that utilities are required to achieve 30 percent of annual growth until their actual reductions reach 0.4 percent of peak demand, at which point peak demand then becomes the new goal. The bill also statutorily allows utilities to communicate directly with their customers to promote and assist with performing their energy efficiency programs so that investor-owned utilities outside of the Electric Reliability Council of Texas (ERCOT) region may directly provide rebates, but ERCOT utilities must prove the lack of service in a contested case for the ability to interact with customers for rebate and incentives. Furthermore, to assure program quality and better estimate program cost savings and energy reduction benefits for long term energy planning, S.B. 1125 requires consistent evaluation, measurement, and verification on all energy efficiency programs. The bill also expands demand-side management programs, like Load Resource, to residential and commercial classes as long as current reliability standards are maintained.

S.B. 1125 amends current law relating to energy efficiency goals and programs, public information regarding energy efficiency programs, and the participation of loads in certain energy markets.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 2 (Section 39.9054, Utilities Code) of this bill.

Rulemaking authority previously granted to the Public Utility Commission of Texas is modified in SECTION 1 (Section 39.905, Utilities Code), of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 39.905, Utilities Code, by amending Subsections (a), (b), and (d) and adding Subsections (h) through (k), as follows:

(a) Provides that it is the goal of the legislature that:

(1) Makes no changes to this subdivision;

(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;

(3) each electric utility annually will provide through market-based standard offer programs or through targeted market-transformation programs, rather than limited, targeted, market-transformation programs, incentives sufficient for retail electric providers and competitive energy service providers to acquire cost-effective energy efficiency, subject to cost ceilings established by the Public Utility Commission of Texas (PUC), for the utility's residential and commercial customers equivalent to:

(A) not less than, rather than at least:

(i) 30 percent, rather than 10 percent, of the electric utility's annual growth in demand of residential and commercial customers by December 31 of each year beginning with the 2013 calendar year, rather than December 31, 2007; and

(ii) the amount of energy efficiency to be acquired for the utility's residential and commercial customers for the most recent preceding year; and

(B) for an electric utility whose amount of energy efficiency to be acquired under this subsection is equivalent to at least four-tenths of one percent of the electric utility's summer weather-adjusted peak demand for residential and commercial customers in the previous calendar year, not less than:

(i) four-tenths of one percent of the utility's summer weather-adjusted peak demand for residential and commercial customers by December 31 of each subsequent year; and

(ii) the amount of energy efficiency to be acquired for the utility's residential and commercial customers for the most recent preceding year;

(4) each utility in the ERCOT region shall use its best efforts to encourage and facilitate the involvement of the region's retail electric providers in the delivery of efficiency programs and demand response programs under this section, including programs for demand-side renewable energy systems that use distributed renewable generation, as defined by Section 39.916; or reduce the need for energy consumption by using renewable energy technology, a geothermal heat pump, a solar water heater, or another natural mechanism of the environment; and

(5)-(6) Makes no changes to these subdivisions.

Deletes existing text relating to electric and energy service providers acquiring 15 percent of the electric utility's annual growth in demand of residential and commercial customers by December 31, 2008, provided that the electric utility's

program expenditures for 2008 funding may not be greater than 75 percent above the utility's program budget for 2007 for residential and commercial customers, as included in the April 1, 2006, filing. Deletes existing Paragraph (C) relating to electric and energy service providers acquiring 20 percent of the electric utility's annual growth in demand of residential and commercial customers by December 31, 2009, provided that the electric utility's program expenditures for 2009 funding may not be greater than 150 percent above the utility's program budget for 2007 for residential and commercial customers, as included in the April 1, 2006, filing.

(b) Requires PUC to provide oversight and adopt rules and procedures to ensure that the utilities can achieve certain goals of this section, including ensuring that the costs associated with programs provided under this section and any shareholder bonus awarded are borne by the customer classes that receive the services under the programs; ensuring that programs are evaluated, measured, and verified using a framework established by PUC that promotes effective program design and consistent and streamlined reporting; and ensuring that an independent organization certified under Section 39.151 (Essential Organizations) allows load participation in all energy markets for residential, commercial, and industrial customer classes, either directly or through aggregators of retail customers, to the extent that load participation by each of those customer classes complies with reasonable requirements adopted by the organization relating to the reliability and adequacy of the regional electric network and in a manner that will increase market efficiency, competition, and customer benefits.

(d) Authorizes utilities to choose to implement any program option approved by PUC after its evaluation in order to satisfy the goal in Subsection (a), including:

(1)-(3) Makes no changes to these subdivisions;

(4) the installation of variable speed air conditioning systems, motors, and drives;

(5)-(7) Redesignates existing Subdivisions (4)-(6) as Subdivisions (5)-(7);

(8) commissioning services for commercial and institutional buildings that result in operational and maintenance practices that reduce the buildings' energy consumption;

(9)-(14) Redesignates existing Subdivisions (7)-(12) as Subdivisions (9)-(14);

(15) data center efficiency programs; and

(16) energy use program with measurable and verifiable result that reduce energy consumption through behavioral changes that lead to efficient use patterns and practices.

(h) Authorizes a utility, for an electric utility operating in an area not open to competition, to achieve the goal of this section by:

(1) providing rebate or incentive funds directly to customers to promote or facilitate the success of programs implemented under this section; or

(2) developing, subject to PUC approval, new programs other than standard offer programs and market transformation programs, to the extent that the new programs satisfy the same cost-effectiveness requirements as standard offer programs and market transformation programs.

(i) Authorizes a utility, for an electric utility operating in an area open to competition, on demonstration to PUC, after a contested case hearing, that the requirements under Subsection (a) cannot be met in a rural area through retail electric providers or competitive energy service providers, to achieve the goal of this section by providing

rebate or incentive funds directly to customers in the rural area to promote or facilitate the success of programs implemented under this section.

(j) Authorizes an electric utility to use energy audit programs to achieve the goal of this section if:

(1) the programs do not constitute more than three percent of total program costs under this section; and

(2) the addition of the programs does not cause a utility's portfolio of programs to no longer be cost-effective.

(k) Authorizes PUC, to help a residential or nongovernmental nonprofit customer make informed decisions regarding energy efficiency, to consider program designs that ensure, to the extent practicable, that the customer is provided with information using standardized forms and terms that allow the customer to compare offers for varying degrees of energy efficiency attainable using a measure the customer is considering by cost, estimated energy savings, and payback periods.

SECTION 2. Amends Subchapter Z, Chapter 39, Utilities Code, by adding Section 39.9054, as follows:

Sec. 39.9054. ENERGY EFFICIENCY PLANS AND REPORTS; PUBLIC INFORMATION. (a) Requires an electric utility to submit electronically an energy efficiency plan and report in a searchable form prescribed by PUC on or before April 1 of each year. Requires PUC by rule to adopt a form that will permit the public to easily compare information submitted by different electric utilities. Requires that the plan and report:

(1) provide information on the utility's performance in achieving energy efficiency goals for the previous five years;

(2) describe how the utility intends to achieve future goals; and

(3) provide any other information PUC considers relevant.

(b) Requires PUC, on the Internet website found at <http://www.puc.state.tx.us>, to publish information on energy efficiency programs, including:

(1) an explanation of the goal for energy efficiency in this state;

(2) a description of the types of energy efficiency programs available to certain classes of eligible customers;

(3) a link to the plans and reports filed as prescribed by Subsection (a); and

(4) a list of persons who install or provide energy efficiency measures or services by area.

(c) Provides that this section does not require PUC to warrant that the list required to be displayed under Subsection (b) constitutes a complete or accurate list of all persons who install energy efficiency measures or services in the marketplace.

SECTION 3. Repealer: Section 39.905(b-2) (relating to establishing an incentive under Section 36.204 to reward utilities administering programs under this section that exceed the minimum goals established by this section), Utilities Code.

SECTION 4. Effective date: September 1, 2011.