

By: Chisum

H.B. No. 3595

A BILL TO BE ENTITLED

AN ACT

relating to energy efficiency goals and energy efficiency programs.

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) all customers, in all customer classes and geographic regions, 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 or winter peak demand, or energy costs;

(3) each electric utility will provide, through 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 equivalent to at least:

(A) 25 [~~10~~] percent of the electric utility's annual growth in demand of residential and commercial customers by December 31, 2012 [~~2007~~];

1 (B) one-half of one [15] percent of the electric
2 utility's peak [~~annual growth in~~] demand of residential and
3 commercial customers by December 31, 2013 [~~2008, provided that the~~
4 ~~electric utility's program expenditures for 2008 funding may not be~~
5 ~~greater than 75 percent above the utility's program budget for 2007~~
6 ~~for residential and commercial customers, as included in the April~~
7 ~~1, 2006, filing~~]; and

8 (C) a percentage of peak demand of residential
9 and commercial customers by December 31, 2014 and each year
10 thereafter that the Commission annually shall determine to be
11 reasonable to achieve, although the percentage shall not be less
12 than one-half of one percent of the electric utility's peak demand
13 of residential and commercial customers nor, except for good cause
14 shown for an electric utility, less than any prior year's goal [20
15 ~~percent of the electric utility's annual growth in demand of~~
16 ~~residential and commercial customers by December 31, 2009, provided~~
17 ~~that the electric utility's program expenditures for 2009 funding~~
18 ~~may not be greater than 150 percent above the utility's program~~
19 ~~budget for 2007 for residential and commercial customers, as~~
20 ~~included in the April 1, 2006, filing~~];

21 (4) each electric utility in the ERCOT region shall
22 use its best efforts to encourage and facilitate the involvement of
23 the region's retail electric providers in the delivery of
24 efficiency programs and demand response programs under this
25 section;

26 (5) retail electric providers in the ERCOT region, and
27 electric utilities outside of the ERCOT region, shall provide

1 customers with energy efficiency educational materials;

2 (6) electric utilities may communicate with customers
3 and provide rebate or incentive funds to their customers to promote
4 of facilitate the success of programs; and

5 (7) [~~(6)~~] notwithstanding Subsection (a)(3), electric
6 utilities shall continue to make available, at 2007 funding and
7 participation levels, any load management standard offer programs
8 developed for industrial customers and implemented prior to May 1,
9 2007.

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

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

16 (2) establishing an incentive under Section 36.204 to
17 reward utilities administering programs under this section that
18 exceed the minimum goals established by this section;

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

22 (A) defer the costs of complying with this
23 section; and

24 (B) recover the deferred costs through an energy
25 efficiency cost recovery factor on the expiration of the rate
26 freeze period;

27 (4) ensuring that the costs associated with programs

1 provided under this section are borne by the customer classes that
2 receive the services under the programs; and

3 (5) ensuring the program rules encourage the value of
4 the incentives to be passed on to the end-use customer.

5 (b-1) The energy efficiency cost recovery factor under
6 Subsection (b)(1) may not result in an over-recovery of costs but
7 may be adjusted each year to change rates to enable utilities to
8 match revenues against energy efficiency costs and any incentives
9 to which they are granted. The factor shall be adjusted to reflect
10 any over-collection or under-collection of energy efficiency cost
11 recovery revenues in previous years.

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

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

20 ~~(2) determines the amount of savings that is~~
21 ~~achievable through utility programs in compliance with commission~~
22 ~~rules,~~

23 ~~(3) recommends whether:~~

24 ~~(A) utility funding of energy efficiency in areas~~
25 ~~of the state with competitive retail electric service should~~
26 ~~continue,~~

27 ~~(B) energy efficiency in areas with competitive~~

1 ~~retail electric service is best provided by the competitive market,~~
2 ~~and~~

3 ~~(C) utilities should fund education programs to~~
4 ~~be conducted by the commission regarding the provision of energy~~
5 ~~efficiency service from the competitive market,~~

6 ~~(4) provides estimates of achievable savings specific~~
7 ~~to each utility service area and each customer class,~~

8 ~~(5) quantifies the costs and rate impacts associated~~
9 ~~with meeting energy efficiency goals,~~

10 ~~(6) determines whether an increase in the goal to 30~~
11 ~~percent of the growth in demand for each utility is achievable by~~
12 ~~December 31, 2010, and whether an increase in the goal to 50 percent~~
13 ~~of the growth in demand for electricity is achievable by December~~
14 ~~31, 2015, by each utility in the service area served through the~~
15 ~~energy efficiency programs described by this section,~~

16 ~~(7) recommends policies designed to promote energy~~
17 ~~efficiency in the areas of the state that are not served by the~~
18 ~~utilities which administer programs under this section, and~~

19 ~~(8) identifies potential barriers to the increased~~
20 ~~participation by retail electric providers in the delivery of~~
21 ~~energy efficiency services to ERCOT customers, and to the increased~~
22 ~~potential for energy efficiency in ERCOT or in this state~~
23 ~~generally, including any recommended regulatory or statutory~~
24 ~~changes to eliminate such barriers or facilitate greater~~
25 ~~efficiency.~~

26 ~~(b-3)]~~ Beginning not later than January 1, 2008, the
27 commission, in consultation with the State Energy Conservation

1 Office, annually for a period of five years shall compute and report
2 to ERCOT the projected annual and measure-life energy savings and
3 summer and winter demand impacts for each entity in the ERCOT region
4 that administers standard offer programs, market transformation
5 programs, combined heating and power technology, demand response
6 programs, solar incentive programs, appliance efficiency
7 standards, energy efficiency programs in public buildings, and any
8 other relevant programs that are reasonably anticipated to reduce
9 electricity energy or peak demand or that serve as substitutes for
10 electric supply.

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

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

19 (d) The commission shall establish a procedure for
20 reviewing and evaluating market-transformation program options
21 described by this subsection and other options. In evaluating
22 program options, the commission may consider the ability of a
23 program option to reduce costs to customers through reduced demand,
24 energy savings, and relief of congestion. Utilities may choose to
25 implement any program option approved by the commission after its
26 evaluation in order to satisfy the goal in Subsection (a),
27 including:

- 1 (1) energy-smart schools;
- 2 (2) appliance retirement and recycling;
- 3 (3) air conditioning system tune-ups;
- 4 (4) the installation of variable speed air
5 conditioning system and motors;
- 6 (5) the use of trees or other landscaping for energy
7 efficiency.;
- 8 (6) [~~(5)~~] customer energy management and demand
9 response programs;
- 10 (7) [~~(6)~~] high performance residential and commercial
11 buildings that will achieve the levels of energy efficiency
12 sufficient to qualify those buildings for federal tax incentives;
- 13 (8) commissioning services for commercial and
14 institutional buildings that result in operational and maintenance
15 practices that reduce the buildings' energy consumption;
- 16 (9) [~~(7)~~] programs for customers who rent or lease
17 their residence or commercial space;
- 18 (10) [~~(8)~~] programs providing energy monitoring
19 equipment to customers that enable a customer to better understand
20 the amount, price, and time of the customer's energy use;
- 21 (11) [~~(9)~~] energy audit programs for owners and other
22 residents of single-family or multifamily residences and for small
23 commercial customers;
- 24 (12) [~~(10)~~] net-zero energy new home programs;
- 25 (13) [~~(11)~~] solar thermal or solar electric programs;
- 26 and
- 27 (14) [~~(12)~~] programs for using windows and other

1 glazing systems, glass doors, and skylights in residential and
2 commercial buildings that reduce solar gain by at least 30 percent
3 from the level established for the federal Energy Star windows
4 program.

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

12 (1) the amount the commission approved for energy
13 efficiency programs in the utility's most recent full rate
14 proceeding; or

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

17 (f) Unless funding is provided under Section 39.903, each
18 unbundled transmission and distribution utility shall include in
19 its energy efficiency plan a targeted low-income energy efficiency
20 program as described by Section 39.903(f)(2), and the savings
21 achieved by the program shall count toward the transmission and
22 distribution utility's energy efficiency goal. The commission
23 shall determine the appropriate level of funding to be allocated to
24 both targeted and standard offer low-income energy efficiency
25 programs in each unbundled transmission and distribution utility
26 service area. The total expenditures for both targeted and
27 standard offer low-income energy efficiency programs will be based

1 on the amount spent by the transmission and distribution utility on
2 the commission's hard-to-reach program in calendar year 2003. This
3 level of funding for low-income energy efficiency programs shall be
4 provided from money approved by the commission for the transmission
5 and distribution utility's energy efficiency programs. The state
6 agency that administers the federal weatherization assistance
7 program shall provide reports as required by the commission to
8 provide the most current information available on energy and peak
9 demand savings achieved in each transmission and distribution
10 utility service area.

11 (g) Schools may participate in more than one program and may
12 use more than one product or strategy in order to maximize the
13 school's energy and cost savings. A utility may claim savings
14 realized by the school for those programs that utilize utility
15 resources.

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

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

25 (2) changes in building energy codes; and

26 (3) changes in government-imposed appliance or
27 equipment efficiency standards.

1 SECTION 2. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2011.