

By: Carona

S.B. No. 1125

A BILL TO BE ENTITLED

AN ACT

1
2 relating to energy efficiency goals and programs and the
3 participation of loads in certain energy markets.

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

5 SECTION 1. Section 39.905, Utilities Code, is amended by
6 amending Subsections (a) and (b) and adding Subsections (h) through
7 (l) to read as follows:

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

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

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

17 (3) each electric utility annually will provide,
18 through market-based standard offer programs or through [~~limited,~~
19 targeted[~~7~~] market-transformation programs, incentives sufficient
20 for retail electric providers and competitive energy service
21 providers to acquire additional cost-effective energy efficiency,
22 subject to cost ceilings established by the commission, for the
23 utility's residential and commercial customers equivalent to [~~at~~
24 ~~least~~]:

1 (A) not less than:

2 (i) 30 ~~[10]~~ percent of the electric
3 utility's annual growth in demand of residential and commercial
4 customers by December 31 of each year, beginning with the 2013
5 calendar year; and

6 (ii) the amount of energy efficiency to be
7 acquired for the utility's residential and commercial customers for
8 the most recent preceding year ~~[, 2007]~~; and

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

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

17 (ii) the amount of energy efficiency to be
18 acquired for the utility's residential and commercial customers for
19 the most recent preceding year ~~[15 percent of the electric~~
20 ~~utility's annual growth in demand of residential and commercial~~
21 ~~customers by December 31, 2008, provided that the electric~~
22 ~~utility's program expenditures for 2008 funding may not be greater~~
23 ~~than 75 percent above the utility's program budget for 2007 for~~
24 ~~residential and commercial customers, as included in the April 1,~~
25 ~~2006, filing, and~~

26 [~~(C) 20 percent of the electric utility's annual~~
27 ~~growth in demand of residential and commercial customers by~~

1 ~~December 31, 2009, provided that the electric utility's program~~
2 ~~expenditures for 2009 funding may not be greater than 150 percent~~
3 ~~above the utility's program budget for 2007 for residential and~~
4 ~~commercial customers, as included in the April 1, 2006, filing];~~

5 (4) each electric utility in the ERCOT region shall
6 use its best efforts to encourage and facilitate the involvement of
7 the region's retail electric providers in the delivery of
8 efficiency programs and demand response programs under this
9 section;

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

13 (6) notwithstanding Subsection (a)(3), electric
14 utilities shall continue to make available, at 2007 funding and
15 participation levels, any load management standard offer programs
16 developed for industrial customers and implemented prior to May 1,
17 2007.

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

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

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

27 (3) providing a utility that is unable to establish an

1 energy efficiency cost recovery factor in a timely manner due to a
2 rate freeze with a mechanism to enable the utility to:

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

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

8 (4) ensuring that the costs associated with programs
9 provided under this section and any shareholder bonus awarded are
10 borne by the customer classes that receive the services under the
11 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 that programs are evaluated, measured,
15 and verified using a framework established by the commission that
16 promotes effective program design and consistent and streamlined
17 reporting; and

18 (7) ensuring that an independent organization
19 certified under Section 39.151 allows load participation in all
20 energy markets for residential, commercial, and industrial
21 customer classes, either directly or through aggregators of retail
22 customers, to the extent that load participation by each of those
23 customer classes complies with reasonable requirements adopted by
24 the organization relating to the reliability and adequacy of the
25 regional electric network in a manner that will increase market
26 efficiency, competition, and customer benefits.

27 (h) For an electric utility operating in an area not open to

1 competition, the utility may achieve the goal of this section by:

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

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

10 (i) Energy efficiency measure recommendations provided
11 directly to residential, commercial, and nonprofit,
12 nongovernmental consumers by energy service providers must include
13 a written disclosure regarding whether the energy service provider
14 receives any financial benefit from recommending particular energy
15 efficiency measures, specifying the energy efficiency measures
16 from which it receives a financial benefit.

17 (j) For an electric utility operating in an area open to
18 competition, on demonstration to the commission, after a contested
19 case hearing, that the requirements under Subsection (a) cannot be
20 met in a rural area through retail electric providers or
21 competitive energy service providers, the utility may achieve the
22 goal of this section by providing rebate or incentive funds
23 directly to customers in the rural area to promote or facilitate the
24 success of programs implemented under this section.

25 (k) An electric utility may use energy audit programs to
26 achieve the goal of this section if:

27 (1) the programs do not constitute more than three

1 percent of total program costs under this section; and

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

4 (1) To help a residential or nongovernmental nonprofit
5 customer make informed decisions regarding energy efficiency, the
6 commission may consider program designs that ensure, to the extent
7 practicable, that the customer is provided with information using
8 standardized forms and terms that allow the customer to compare
9 offers for varying degrees of energy efficiency attainable using a
10 measure the customer is considering by cost, estimated energy
11 savings, and payback periods.

12 SECTION 2. Subsection (b-2), Section 39.905, Utilities
13 Code, is repealed.

14 SECTION 3. This Act takes effect September 1, 2011.