

AN ACT

relating to energy efficiency goals and programs, public information regarding energy efficiency programs, and the participation of loads in certain energy markets.

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

SECTION 1. Section 39.905, Utilities Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (h) through (k) 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, 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 [~~limited,~~] targeted[~~7~~] market-transformation programs, incentives sufficient for retail electric providers and competitive energy service providers to acquire additional cost-effective energy efficiency, subject to cost ceilings established by the commission, for the utility's residential and commercial customers equivalent to [~~at~~

1 ~~least~~]:

2 (A) not less than:

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

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

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

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

18 (ii) the amount of energy efficiency to be
19 acquired for the utility's residential and commercial customers for
20 the most recent preceding year ~~[15 percent of the electric~~
21 ~~utility's annual growth in demand of residential and commercial~~
22 ~~customers by December 31, 2008, provided that the electric~~
23 ~~utility's program expenditures for 2008 funding may not be greater~~
24 ~~than 75 percent above the utility's program budget for 2007 for~~
25 ~~residential and commercial customers, as included in the April 1,~~
26 ~~2006, filing; and~~

27 ~~[(C) 20 percent of the electric utility's annual~~

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

6 (4) each electric utility in the ERCOT region shall
7 use its best efforts to encourage and facilitate the involvement of
8 the region's retail electric providers in the delivery of
9 efficiency programs and demand response programs under this
10 section, including programs for demand-side renewable energy
11 systems that:

12 (A) use distributed renewable generation, as
13 defined by Section 39.916; or

14 (B) reduce the need for energy consumption by
15 using a renewable energy technology, a geothermal heat pump, a
16 solar water heater, or another natural mechanism of the
17 environment;

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

21 (6) notwithstanding Subsection (a)(3), electric
22 utilities shall continue to make available, at 2007 funding and
23 participation levels, any load management standard offer programs
24 developed for industrial customers and implemented prior to May 1,
25 2007.

26 (b) The commission shall provide oversight and adopt rules
27 and procedures to ensure that the utilities can achieve the goal of

1 this section, including:

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

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

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

11 (A) defer the costs of complying with this
12 section; and

13 (B) recover the deferred costs through an energy
14 efficiency cost recovery factor on the expiration of the rate
15 freeze period;

16 (4) ensuring that the costs associated with programs
17 provided under this section and any shareholder bonus awarded are
18 borne by the customer classes that receive the services under the
19 programs; ~~and~~

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

22 (6) ensuring that programs are evaluated, measured,
23 and verified using a framework established by the commission that
24 promotes effective program design and consistent and streamlined
25 reporting; and

26 (7) ensuring that an independent organization
27 certified under Section 39.151 allows load participation in all

1 energy markets for residential, commercial, and industrial
2 customer classes, either directly or through aggregators of retail
3 customers, to the extent that load participation by each of those
4 customer classes complies with reasonable requirements adopted by
5 the organization relating to the reliability and adequacy of the
6 regional electric network and in a manner that will increase market
7 efficiency, competition, and customer benefits.

8 (d) The commission shall establish a procedure for
9 reviewing and evaluating market-transformation program options
10 described by this subsection and other options. In evaluating
11 program options, the commission may consider the ability of a
12 program option to reduce costs to customers through reduced demand,
13 energy savings, and relief of congestion. Utilities may choose to
14 implement any program option approved by the commission after its
15 evaluation in order to satisfy the goal in Subsection (a),
16 including:

- 17 (1) energy-smart schools;
- 18 (2) appliance retirement and recycling;
- 19 (3) air conditioning system tune-ups;
- 20 (4) the installation of variable speed air
21 conditioning systems, motors, and drives;
- 22 (5) the use of trees or other landscaping for energy
23 efficiency;
- 24 (6) [~~(5)~~] customer energy management and demand
25 response programs;
- 26 (7) [~~(6)~~] high performance residential and commercial
27 buildings that will achieve the levels of energy efficiency

1 sufficient to qualify those buildings for federal tax incentives;

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

5 (9) [~~(7)~~] programs for customers who rent or lease
6 their residence or commercial space;

7 (10) [~~(8)~~] programs providing energy monitoring
8 equipment to customers that enable a customer to better understand
9 the amount, price, and time of the customer's energy use;

10 (11) [~~(9)~~] energy audit programs for owners and other
11 residents of single-family or multifamily residences and for small
12 commercial customers;

13 (12) [~~(10)~~] net-zero energy new home programs;

14 (13) [~~(11)~~] solar thermal or solar electric programs;

15 [~~and~~]

16 (14) [~~(12)~~] programs for using windows and other
17 glazing systems, glass doors, and skylights in residential and
18 commercial buildings that reduce solar gain by at least 30 percent
19 from the level established for the federal Energy Star windows
20 program;

21 (15) data center efficiency programs; and

22 (16) energy use programs with measurable and
23 verifiable results that reduce energy consumption through
24 behavioral changes that lead to efficient use patterns and
25 practices.

26 (h) For an electric utility operating in an area not open to
27 competition, the utility may achieve the goal of this section by:

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

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

9 (i) For an electric utility operating in an area open to
10 competition, on demonstration to the commission, after a contested
11 case hearing, that the requirements under Subsection (a) cannot be
12 met in a rural area through retail electric providers or
13 competitive energy service providers, the utility may achieve the
14 goal of this section by providing rebate or incentive funds
15 directly to customers in the rural area to promote or facilitate the
16 success of programs implemented under this section.

17 (j) An electric utility may use energy audit programs to
18 achieve the goal of this section if:

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

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

23 (k) To help a residential or nongovernmental nonprofit
24 customer make informed decisions regarding energy efficiency, the
25 commission may consider program designs that ensure, to the extent
26 practicable, the customer is provided with information using
27 standardized forms and terms that allow the customer to compare

1 offers for varying degrees of energy efficiency attainable using a
2 measure the customer is considering by cost, estimated energy
3 savings, and payback periods.

4 SECTION 2. Subchapter Z, Chapter 39, Utilities Code, is
5 amended by adding Section 39.9054 to read as follows:

6 Sec. 39.9054. ENERGY EFFICIENCY PLANS AND REPORTS; PUBLIC
7 INFORMATION. (a) An electric utility shall submit electronically
8 an energy efficiency plan and report in a searchable form
9 prescribed by the commission on or before April 1 of each year. The
10 commission by rule shall adopt a form that will permit the public to
11 easily compare information submitted by different electric
12 utilities. The plan and report must:

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

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

17 (3) provide any other information the commission
18 considers relevant.

19 (b) On the Internet website found at
20 <http://www.puc.state.tx.us>, the commission shall publish
21 information on energy efficiency programs, including:

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

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

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

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

3 (c) This section does not require the commission to warrant
4 that the list required to be displayed under Subsection (b)
5 constitutes a complete or accurate list of all persons who install
6 energy efficiency measures or services in the marketplace.

7 SECTION 3. Subsection (b-2), Section 39.905, Utilities
8 Code, is repealed.

9 SECTION 4. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1125 passed the Senate on April 21, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 17, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1125 passed the House, with amendments, on May 11, 2011, by the following vote: Yeas 99, Nays 34, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor