

BILL ANALYSIS

Senate Research Center
89R27053 JXC-F

C.S.S.B. 2994
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As Texas' population grows, ERCOT expects a sharp rise in demand for electricity over the next decade. In addition to increasing the supply of energy to the grid, another important aspect of ensuring grid reliability in the years to come is the conservation and efficient use of electricity. Current law sets goals for demand reduction and energy savings as a percentage of demand growth experienced by each individual electric utility, with performance bonuses awarded by the Public Utility Commission of Texas (PUC) for exceedance of these goals.

S.B. 2994 encourages further energy efficiency by raising baseline goals for energy demand reduction and energy savings and by removing load management from goal calculations. Removing load management programs from the goals helps paint a more accurate picture of energy efficiency and savings. S.B. 2994 also instructs the PUC to evaluate the goals and benefit structure and amend them as necessary at the end of a three-year period. S.B. 2994 marks a novel collaboration between electric utilities, the PUC, and a number of other stakeholders with the common goal of improving energy reliability and stability in Texas.

S.B. 2994 helps Texas to improve grid stability and energy reliability by removing load management from demand reduction and energy savings goals, increasing utilities' annual demand reduction and energy savings goals, and instructing the PUC to evaluate the goals at the end of a three-year term.

(Original Author/Sponsor's Statement of Intent)

C.S.S.B. 2994 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 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), (e), (f), (g), (h), (i), and (j) and adding Subsections (a-1), (a-2), (a-3), (i-1), (i-2), and (l), as follows:

(a) Requires the Public Utility Commission of Texas (PUC) to ensure that:

- (1) makes nonsubstantive 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, summer and winter peak net demand, or energy costs;
- (3) each electric utility administers energy efficiency programs that:

- (A) cause the utility's portfolio of programs to be cost-effective;
- (B) for an electric utility in an area of the state open to competition, acquire certain minimum quantifiable reductions in demand annually without the inclusion of demand reduction achieved through load management programs;
- (C) for an electric utility in an area of the state not open to competition, include demand response programs and acquire certain minimum quantifiable reductions in demand annually;
- (D) acquire annual energy savings of no less than 75 percent of what the utility achieved in energy savings in 2024 as previously reported by the utility to the PUC;

(4) each electric utility annually provides, through certain methods, certain incentives sufficient for certain entities to acquire additional cost-effective energy efficiency, subject to cost ceilings established by the PUC, for the utility's residential and commercial customers;

(5) each electric utility in the ERCOT region uses its best efforts to encourage and facilitate the involvement of the region's retail electric providers in the delivery of efficiency programs under Section 39.905 (Goal for Energy Efficiency), including programs for demand-side renewable energy systems that meet certain criteria.

Deletes existing text providing that it is the goal of the legislature that each electric utility annually will provide, through certain methods, certain incentives, subject to cost ceilings established by the PUC, for the utility's residential and commercial customers equivalent to not less than certain amounts; for an electric utility whose amount of energy efficiency to be acquired under this subsection is equivalent to certain levels, not less than certain amounts; each electric utility in the ERCOT region is required to use its best efforts to encourage and facilitate the involvement of the region's retail electric providers in the delivery of demand response programs under this section, including programs for certain demand-side renewable energy systems; retail electric providers in the ERCOT region, and electric utilities outside of the ERCOT region, are required to provide customers with energy efficiency educational materials; and, notwithstanding Subsection (a)(3), electric utilities are required to continue to make available, at 2007 funding and participation levels, any load management standard offer programs developed for industrial customers and implemented prior to May 1, 2007. Makes nonsubstantive changes.

(a-1) Provides that, beginning with the 2027 calendar year, the minimum goals in Subsections (a)(3)(B), (C), and (D) are increased by 2.5 percent each year through 2030. Requires the PUC, beginning with the 2031 calendar year, to update the minimum goals with appropriate demand reductions and energy savings.

(a-2) Requires the PUC to:

- (1) allow an electric utility operating in an area open to competition to claim energy savings and demand reduction for energy efficiency incentive programs supporting the requirements of Section 39.919(b)(9) (relating to requiring that certain rules provide for the adoption of a program that allows certain retail electric providers to obtain certain funding); and
- (2) by rule establish a deemed savings and avoided demand per device to be used for the purposes of Subdivision (1).

(a-3) Prohibits the PUC from allowing an electric utility operating in an area open to competition to claim energy savings and demand reduction from demand response programs offered by a retail electric provider.

(b) Requires the PUC to provide oversight and adopt rules and procedures to ensure that the utilities can achieve the goals of this section, including:

- (1) makes a nonsubstantive change to this subdivision;
- (2) makes no changes to this subdivision;
- (3) providing that an incentive achieved under this section is prohibited from being included in an electric utility's revenues or net income for the purposes of establishing a utility's rates or the utility's earnings monitoring report under Section 36.157 (Review Rate Schedule), 36.210 (Periodic Rate Adjustments), or 36.212 (Rate Case Requirement for Certain Non-ERCOT Utilities), and entitles the electric utility to receive an amount equal to the net benefits realized in meeting the applicable demand reduction and energy savings goals, provided that certain procedures are followed;
- (4)-(5) redesignates existing Subdivisions (3) and (4) as Subdivisions (4) and (5) and makes a nonsubstantive change;
- (6) establishing cost ceilings that allow electric utilities to meet the goals of this section and exclude certain elements;
- (7)-(8) redesignates existing Subdivisions (5) and (6) as Subdivisions (7) and (8) and makes no further changes; and
- (9) 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 retail electric providers or aggregations as authorized by PUC rule or the independent organization, rather than 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. Redesignates existing Subdivision (7) as Subdivision (9).

(e) Prohibits money the utility uses under this subsection from exceeding 10 percent of the greater of the amount the PUC approved for energy efficiency programs in the utility's most recent proceeding, rather than full rate proceeding, in which an energy efficiency cost recovery factor is set.

(f) Requires each electric utility, rather than each unbundled transmission and distribution utility, operating in an area open to competition to include in its energy efficiency plan a low income, rather than a targeted low income, energy efficiency program, and the savings achieved by the program to count toward the utility's energy efficiency goal. Requires the PUC to ensure that, for each program year, not less than 15 percent of the total energy efficiency budget of each electric utility operating in an area open to competition is dedicated to low-income energy efficiency programs. Authorizes the PUC to determine that a higher level of funding above the minimum requirement should be allocated to low-income energy efficiency programs in each utility's service area. Provides that a low-income energy efficiency program administered under this section is not required to meet minimum cost-effectiveness standards, but the PUC is required to evaluate the program for opportunities to improve cost-effectiveness while delivering services to low-income customers. Authorizes a utility to use the customer identification process established under Section 17.007 (Identification Process for Customer Service Benefits) to validate customer eligibility.

Deletes existing text requiring the PUC to determine the appropriate level of funding to be allocated to both targeted and standard offer low income energy efficiency programs in each unbundled transmission and distribution utility service area. Deletes existing text

requiring the PUC to ensure that annual expenditures for the targeted low-income energy efficiency programs of each unbundled transmission and distribution utility are not less than 10 percent of the transmission and distribution utility's energy efficiency budget for the year. Deletes existing text requiring that a targeted low-income energy efficiency program comply with the same audit requirements that apply to federal weatherization subrecipients. Deletes existing text requiring the state agency that administers the federal weatherization assistance program to participate in energy efficiency cost recovery factor proceedings related to expenditures under this subsection to ensure that targeted low-income weatherization programs are consistent with federal weatherization programs and adequately funded. Makes conforming changes.

(f-1) Authorizes an electric utility operating in an area open to competition, notwithstanding Subsection (f), to request that the PUC grant an exemption for good cause for a program year to allow the utility to dedicate not less than 10 percent of the total energy efficiency budget of the utility to low-income energy efficiency programs.

(g) Authorizes the PUC to provide for a good cause exemption to a utility's liability for an administrative penalty or other sanction if the utility fails to meet a goal for energy efficiency under this section and the utility's failure to meet the goal is caused by one or more factors outside of the utility's control, including limitations caused by the imposition of cost ceilings on the energy efficiency cost recovery factor and interruptions in the supply chain.

Deletes existing text authorizing the PUC to provide for a good cause exemption to a utility's liability for an administrative penalty or other sanction if the utility fails to certain goals and the failure to meet the goal is caused by certain factors outside of the utility's control, including insufficient demand by retail electric providers and competitive energy service providers for program incentive funds made available by the utility through its programs. Makes nonsubstantive changes.

(h) Authorizes the utility, for an electric utility operating in an area not open to competition, to achieve the goal of this section by developing, subject to PUC approval, new programs other than standard offer programs and market transformation programs, provided, rather than to the extent, that the new programs do not render the portfolio of programs no longer cost-effective, rather than 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 that provides to the PUC notice, sufficient under PUC rules or determined to be sufficient by the PUC, rather than on demonstration after a contested case hearing, that the requirements under Subsection (a) cannot be met in hard-to-reach areas, rather than 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 those areas to promote or facilitate the success of programs implemented under this section. Provides that a notice provided under this section expires on the second anniversary of the date the notice was provided. Requires the PUC by rule to define a hard-to-reach area for the purposes of this subsection. Makes a conforming change.

(i-1) Requires the PUC to provide an opportunity for a hearing for a person to contest an electric utility notice provided under Subsection (i). Provides that the person who contests the notice has the burden of proving to the PUC that the requirements of Subsection (a) can be met through retail electric providers or competitive energy service providers in hard-to-reach areas.

(i-2) Authorizes an electric utility that provides a notice under Subsection (i) to use the customer identification process established under Section 17.007 for the purposes of Subsection (i). Requires each electric utility that submits a request to the PUC or the Health and Human Services Commission to receive customer information to reimburse

the appropriate agency for the prorated cost of the development of the low-income electric customer matching service on terms agreed to by the agency and the low-income electric customer list administrator.

(j) Deletes existing text allowing an electric utility to use energy audit programs to achieve the goal of this section if the programs do not constitute more than three percent of total program costs under this section.

(l) Provides that a municipally owned utility subject to Section 39.9051 (Energy Efficiency for Municipally Owned Utilities) or an electric cooperative is authorized to offer programs described by this section but is not subject to the requirements of this section.

SECTION 2. Requires the PUC to adopt rules to implement Section 39.905, Utilities Code, as amended by this Act, not later than March 1, 2027.

SECTION 3. Effective date: upon passage or September 1, 2025.