

By: Anchía

H.B. No. 5479

A BILL TO BE ENTITLED

AN ACT

relating to energy efficiency goals and programs.

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), (e), (f), (g), (h), (i), and (j) and adding Subsections (a-1), (i-1), and (i-2) to read as follows:

(a) ~~[It is the goal of the legislature]~~ The commission shall ensure 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, 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 not open to competition, include demand response programs;

(C) acquire the following minimum quantifiable

reductions in demand annually from energy efficiency programs,  
without the inclusion of demand reduction achieved through load  
management programs:

(i) 2,500 kilowatts for utilities with an  
average of less than 300,000 total eligible residential and  
commercial customers in the previous five years;

(ii) 7,500 kilowatts for utilities with an  
average of greater than 300,000 but less than 750,000 total  
eligible residential and commercial customers in the previous five  
years;

(iii) 12,500 kilowatts for utilities with  
an average of greater than 750,000 but less than 1.5 million total  
eligible residential and commercial customers in the previous five  
years;

(iv) 37,500 kilowatts for utilities with an  
average of greater than 1.5 million but less than 3 million total  
eligible residential and commercial customers in the previous five  
years;

(v) 50,000 kilowatts for utilities with an  
average of greater than 3 million but less than 5 million total  
eligible residential and commercial customers in the previous five  
years; or

(vi) 62,500 kilowatts for utilities with an  
average of greater than 5 million total eligible residential and  
commercial customers in the previous five years; and

(D) acquire energy savings of no less than 75% of  
what the utility achieved in energy savings in 2024 as previously

1 reported by the utility to the commission;

2 (E) Beginning with the 2027 calendar year, the  
3 goals in Subsections (a)(3)(C) and (a)(3)(D) shall increase by  
4 three percent each year through 2028. The commission shall update  
5 the goals to set appropriate energy savings increases for years  
6 2028 and thereafter;

7 (F) For an electric utility in an area of the  
8 state open to competition, the commission shall allow utilities to  
9 claim energy savings and demand reduction from programs described  
10 by PURA 39.919 (b) (9). The commission shall adopt rules that  
11 establish a deemed savings and avoided demand per device to be used  
12 for this purpose;

13 (4) each electric utility annually provides, through  
14 market-based standard offer programs or through targeted  
15 market-transformation programs, incentives sufficient for retail  
16 electric providers and competitive energy service providers to  
17 acquire additional cost-effective energy efficiency, subject to  
18 cost ceilings established by the commission, for the utility's  
19 residential and commercial customers; [equivalent to:

20 [(A) not less than:

21 [(i) 30 percent of the electric utility's  
22 annual growth in demand of residential and commercial customers by  
23 December 31 of each year beginning with the 2013 calendar year; and

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

27 [(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;]~~

(5) ~~[(4)]~~ each electric utility in the ERCOT region ~~[shall]~~ uses 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, or both under this section, including programs for demand-side renewable energy systems that~~+~~

~~[(A) use distributed renewable energy generation, as defined by Section 39.916, or]~~

~~[(B)]~~ reduce the need for energy consumption by using a renewable energy technology, a geothermal technology ~~[heat pump]~~, a solar water heater, or another natural mechanism of the environment~~+~~.

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

~~[(6) notwithstanding Subsection (a)(3), electric utilities shall continue to make available, at 2007 funding and~~

1 ~~participation levels, any load management standard offer programs~~  
2 ~~developed for industrial customers and implemented prior to May 1,~~  
3 ~~2007].~~

4 (a-1) Utilities subject to Sections 39.9051 or 39.9052 are  
5 not subject to the requirements of this section, although such  
6 utilities may offer programs described by this section.

7 (b) The commission shall provide oversight and adopt rules  
8 and procedures to ensure that the utilities can achieve the goals  
9 ~~[goal]~~ of this section, including:

10 (1) establishing an energy efficiency cost recovery  
11 factor for ensuring timely and reasonable cost recovery for utility  
12 expenditures made to satisfy the goals ~~[goal]~~ of this section;

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

16 (3) prohibiting an incentive achieved under this  
17 section from being included in an electric utility's revenues or  
18 net income for the purposes of establishing a utility's rates or the  
19 utility's earnings monitoring report under Section 36.157, 36.210,  
20 or 36.212;

21 (4) [-(3)] providing a utility that is unable to  
22 establish an energy efficiency cost recovery factor in a timely  
23 manner due to a rate freeze with a mechanism to enable the utility  
24 to:

25 (A) defer the costs of complying with this  
26 section; and

27 (B) recover the deferred costs through an energy

1 efficiency cost recovery factor on the expiration of the rate  
2 freeze period;

3           (5) [~~(4)~~] ensuring that the costs associated with  
4 programs provided under this section and any shareholder incentive  
5 [~~bonus~~] awarded are borne by the customer classes that receive the  
6 services under the programs;

7           (6) establishing cost caps that:

8                   (A) allow electric utilities to meet the goals of  
9 this section; and

10                   (B) exclude:

11                           (i) any shareholder incentive; and

12                           (ii) any third-party evaluation  
13 measurement and verification costs;

14           (7) [~~(5)~~] ensuring the program rules encourage the  
15 value of the incentives to be passed on to the end-use customer;

16           (8) [~~(6)~~] ensuring that programs are evaluated,  
17 measured, and verified using a framework established by the  
18 commission that promotes effective program design and consistent  
19 and streamlined reporting; and

20           (9) [~~(7)~~] ensuring that an independent organization  
21 certified under Section [39.151](#) allows load participation in all  
22 energy markets for residential, commercial, and industrial  
23 customer classes, either directly or through aggregators of retail  
24 electric providers and aggregations as permitted by commission  
25 rules or the independent organization, to the extent that load  
26 participation by each of those customer classes complies with  
27 reasonable requirements adopted by the organization relating to the

1 reliability and adequacy of the regional electric network and in a  
2 manner that will increase market efficiency, competition, and  
3 customer benefits.

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

11 (1) the amount the commission approved for energy  
12 efficiency programs in the utility's most recent ~~[full-rate]~~  
13 proceeding in which an energy efficiency cost recovery factor is  
14 set; or

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

17 (f) Each unbundled transmission and distribution utility  
18 shall include in its energy efficiency plan a ~~[targeted]~~ low-income  
19 energy efficiency program, and the savings achieved by the programs  
20 shall count toward the transmission and distribution utility's  
21 energy efficiency goal. Electric utilities may participate in the  
22 process enabled by Section 17.007 to validate customer eligibility.

23 The commission shall determine the appropriate level of funding to  
24 be allocated to ~~[both targeted and standard offer]~~ low-income  
25 energy efficiency programs in each unbundled transmission and  
26 distribution utility service area. The level of funding for  
27 low-income energy efficiency programs shall be provided from money

1 approved by the commission for the transmission and distribution  
2 utility's energy efficiency programs. The commission shall ensure  
3 that annual expenditures for the ~~[targeted]~~ low-income energy  
4 efficiency programs of each unbundled transmission and  
5 distribution utility are not less than ~~[10]~~ 15 percent of the  
6 transmission and distribution utility's energy efficiency budget  
7 for the year. ~~[A targeted low-income energy efficiency program  
8 must comply with the same audit requirements that apply to federal  
9 weatherization subrecipients.]~~ In an energy efficiency cost  
10 recovery factor proceeding related to expenditures under this  
11 subsection, the commission shall make findings of fact regarding  
12 whether the utility meets requirements imposed under this  
13 subsection. ~~[The state agency that administers the federal  
14 weatherization assistance program shall participate in energy  
15 efficiency cost recovery factor proceedings related to  
16 expenditures under this subsection to ensure that targeted  
17 low-income weatherization programs are consistent with federal  
18 weatherization programs and adequately funded.]~~ Low-income  
19 programs administered under this section do not have to meet  
20 minimum cost-effectiveness standards but should be evaluated for  
21 opportunities to improve cost-effectiveness while delivering  
22 services to low-income customers.

23 (g) The commission may provide for a good cause exemption to  
24 a utility's liability for an administrative penalty or other  
25 sanction if the utility fails to meet a goal for energy efficiency  
26 under this section and the utility's failure to meet the goal is  
27 caused by one or more factors outside of the utility's control,

1 including:

2 (1) limitations caused by the imposition of cost caps  
3 on the energy efficiency cost recovery factor;

4 (2) (1) ~~insufficient demand [by retail electric~~  
5 ~~providers and competitive energy service providers]~~ for program  
6 incentive funds made available by the utility through its programs;

7 (3) (2) ~~changes in building energy codes; [and]~~

8 (4) (3) ~~changes in government-imposed appliance or~~  
9 ~~equipment efficiency standards~~[-]; and

10 (5) interruptions in the supply chain.

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

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

16 (2) developing, subject to commission approval, new  
17 programs other than standard offer programs and market  
18 transformation programs, provided ~~[to the extent]~~ that the new  
19 programs do not render the portfolio of programs no longer  
20 cost-effective ~~[satisfy the same cost-effectiveness requirements~~  
21 ~~as standard offer programs and market transformation programs]~~.

22 (i) For an electric utility operating in an area open to  
23 competition that provides ~~[on demonstration]~~ to the commission a  
24 notice and opportunity for hearing ~~[after a contested case~~  
25 ~~hearing]~~ that the requirements under Subsection (a) cannot be met  
26 ~~[in a rural area]~~ through retail electric providers or competitive  
27 energy service providers in hard-to-reach areas, the utility may

1 achieve the goal of this section by providing rebate or incentive  
 2 funds directly to customers in those areas [~~the rural area~~] to  
 3 promote or facilitate the success of programs implemented under  
 4 this section. The electric utility must provide the notice to the  
 5 commission at least once every two years. For purposes of this  
 6 subsection, the commission shall adopt rules that define a  
 7 hard-to-reach area.

8 (i-1) A person who contests an electric utility notice in a  
 9 hearing described by Subdivision (i) has the burden of proving to  
 10 the commission that the requirements of Subsection (a) can be met  
 11 through retail electric providers or competitive energy service  
 12 providers in hard-to-reach areas.

13 (i-2) An electric utility described by Subdivision (i) may  
 14 receive information identifying low-income electric customers  
 15 under Section 17.007 (a). Each electric utility that submits a  
 16 request to the commission to receive such information agrees to  
 17 reimburse the commission for the cost of the development of the  
 18 low-income electric customer matching service on terms agreed to by  
 19 the commission and the low-income electric customer list  
 20 administrator. An electric utility that receives information  
 21 pursuant to this subsection may only use such information  
 22 implementing programs adopted under this section and is prohibited  
 23 from sharing or disclosing such information to affiliates or third  
 24 parties unrelated to these purposes.

25 (j) 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           SECTION 2. The Public Utility Commission of Texas shall  
5 adopt rules to implement Section 39.905, Utilities Code, as amended  
6 by this Act, not later than September 1, 202.

7           SECTION 3. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2025.