

By: Anchía

H. B. No. 5479

A BILL TO BE ENTITLED

1 AN ACT

2 relating to energy efficiency goals and programs.

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

4 SECTION 1. Section 39.905, Utilities Code, is amended by
5 amending Subsections (a), (b), (e), (f), (g), (h), (i), and (j) and
6 adding Subsections (a-1), (i-1), and (i-2) to read as follows:

7 (a) [It is the goal of the legislature] The commission shall
8 ensure 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, summer and winter peak
17 net demand, or energy costs;

(c) acquire the following minimum quantifiable

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

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

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

26 (D) acquire energy savings of no less than 75% of
27 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

1 energy efficiency to be acquired under this subsection is
2 equivalent to at least four-tenths of one percent of the electric
3 utility's summer weather-adjusted peak demand for residential and
4 commercial customers in the previous calendar year, not less than:
5 [(i) four-tenths of one percent of the
6 utility's summer weather-adjusted peak demand for residential and
7 commercial customers by December 31 of each subsequent year; and
8 [(ii) the amount of energy efficiency to be
9 acquired for the utility's residential and commercial customers for
10 the most recent preceding year;]

11 (5) [44] each electric utility in the ERCOT region
12 [shall] uses its best efforts to encourage and facilitate the
13 involvement of the region's retail electric providers in the
14 delivery of efficiency programs [and], demand response programs, or
15 both under this section, including programs for demand-side
16 renewable energy systems that.

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

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

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

26 [(6) notwithstanding Subsection (a)(3), electric
27 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) ~~(4)~~ 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) [44] 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) [45] ensuring the program rules encourage the
15 value of the incentives to be passed on to the end-use customer;

16 (8) [46] 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) [47] 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 [+] 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.