

1-1 By: Johnson S.B. No. 2994
1-2 (In the Senate - Filed March 14, 2025; April 7, 2025, read
1-3 first time and referred to Committee on Business & Commerce;
1-4 May 5, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 1; May 5, 2025,
1-6 sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Schwertner	X			
1-10	King	X			
1-11	Blanco	X			
1-12	Campbell	X			
1-13	Creighton	X			
1-14	Johnson	X			
1-15	Kolkhorst	X			
1-16	Menéndez	X			
1-17	Middleton		X		
1-18	Nichols	X			
1-19	Zaffirini	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 2994 By: Johnson

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to energy efficiency goals and programs, public
1-24 information regarding energy efficiency programs, and the
1-25 participation of loads in certain energy markets.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 39.905, Utilities Code, is amended by
1-28 amending Subsections (a), (b), (e), (f), (g), (h), (i), and (j) and
1-29 adding Subsections (a-1), (a-2), (a-3), (f-1), (i-1), (i-2), and
1-30 (l) to read as follows:

1-31 (a) The commission shall ensure ~~[It is the goal of the~~
1-32 ~~legislature]~~ that:

1-33 (1) electric utilities ~~[will]~~ administer energy
1-34 efficiency incentive programs in a market-neutral,
1-35 nondiscriminatory manner but will not offer underlying competitive
1-36 services;

1-37 (2) all customers, in all customer classes, ~~[will]~~
1-38 have a choice of and access to energy efficiency alternatives and
1-39 other choices from the market that allow each customer to reduce
1-40 energy consumption, summer and winter peak demand, summer and
1-41 winter peak net demand, or energy costs;

1-42 (3) each electric utility administers energy
1-43 efficiency programs that:

1-44 (A) cause the utility's portfolio of programs to
1-45 be cost-effective;

1-46 (B) for an electric utility operating in an area
1-47 open to competition, acquire the following minimum quantifiable
1-48 reductions in demand annually without the inclusion of demand
1-49 reduction achieved through load management programs:

1-50 (i) 2,500 kilowatts for utilities with an
1-51 average of less than 300,000 total eligible residential and
1-52 commercial customers in the previous five years;

1-53 (ii) 7,500 kilowatts for utilities with an
1-54 average of greater than 300,000 but less than 750,000 total
1-55 eligible residential and commercial customers in the previous five
1-56 years;

1-57 (iii) 12,500 kilowatts for utilities with
1-58 an average of greater than 750,000 but less than 1.5 million total
1-59 eligible residential and commercial customers in the previous five
1-60 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;

(C) for an electric utility operating in an area not open to competition, include demand response programs and acquire the following minimum quantifiable reductions in demand annually:

(i) 5,000 kilowatts for utilities with an average of less than 300,000 total eligible residential and commercial customers in the previous five years;

(ii) 15,000 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) 25,000 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) 75,000 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) 100,000 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) 125,000 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 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 commission;

(4) each electric utility annually provides [will provide], through market-based standard offer programs or through targeted 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; and

(5) [equivalent to:

[(A) not less than:

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

[(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;

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

~~[(A) use distributed renewable 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
participation levels, any load management standard offer programs
developed for industrial customers and implemented prior to May 1,
2007].~~

(a-1) 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. Beginning with the 2031 calendar
year, the commission shall update the minimum goals with
appropriate demand reductions and energy savings.

(a-2) The commission shall:

(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); and

(2) by rule establish a deemed savings and avoided
demand per device to be used for the purposes of Subdivision (1).

(a-3) The commission may not allow 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) The commission shall provide oversight and adopt rules
and procedures to ensure that the utilities can achieve the goals
~~[goal]~~ of this section, including:

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

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

(3) providing that an incentive achieved under this
section:

(A) may not be 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, 36.210, or 36.212; and

(B) 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:

(i) the net benefits must be calculated by
subtracting the total program costs from the total of the avoided
costs associated with the portfolio of programs administered by the
utility;

(ii) a utility that exceeds its demand
reduction and energy savings goals through energy efficiency
programs is entitled to receive an incentive equal to one percent of
the net benefits for every two percent that the energy savings goal
has been exceeded, with a maximum of 25 percent of the utility's
total net benefits; and

(iii) shareholder incentives must be
excluded from program costs and in the determination of future year
shareholder incentives;

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

(A) defer the costs of complying with this

section; and

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

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

(6) establishing cost ceilings that:

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

(B) exclude:

(i) any shareholder incentive; and

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

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

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

(9) ~~[(7)]~~ ensuring that an independent organization certified under Section 39.151 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 commission rule or the independent organization ~~[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.

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

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

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

(f) Each electric ~~[unbundled transmission and distribution]~~ utility operating in an area open to competition shall include in its energy efficiency plan a ~~[targeted]~~ low-income energy efficiency program, and the savings achieved by the program shall count toward the ~~[transmission and distribution]~~ utility's energy efficiency goal. The commission shall 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. The commission may determine that a higher level of funding above the minimum requirement should ~~[determine the appropriate level of funding to]~~ be allocated to ~~[both targeted and standard offer]~~ low-income energy efficiency programs in each utility's ~~[unbundled transmission and distribution utility]~~ service area. The level of funding for low-income energy efficiency programs shall be provided from money approved by the commission for the ~~[transmission and distribution]~~ utility's energy efficiency programs. ~~[The commission shall 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. A targeted low-income energy efficiency program must comply with the same audit requirements that apply to federal weatherization~~

~~subrecipients.] In an energy efficiency cost recovery factor proceeding related to expenditures under this subsection, the commission shall make findings of fact regarding whether the utility meets requirements imposed under this subsection. A low-income energy efficiency program administered under this section is not required to meet minimum cost-effectiveness standards, but the commission shall evaluate the program for opportunities to improve cost-effectiveness while delivering services to low-income customers. A utility may use the customer identification process established under Section 17.007 to validate customer eligibility. [The state agency that administers the federal weatherization assistance program shall 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.]~~

(f-1) Notwithstanding Subsection (f), an electric utility operating in an area open to competition may request that the commission 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) The commission may 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:

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

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

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

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

(5) interruptions in the supply chain.

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

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

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

(i) For an electric utility operating in an area open to competition that provides[, on demonstration] to the commission notice, sufficient under commission rules or determined to be sufficient by the commission, [after a contested case hearing,] that the requirements under Subsection (a) cannot be met in hard-to-reach areas [a rural area] through retail electric providers or competitive energy service providers, the utility may achieve the goal of this section by providing rebate or incentive funds directly to customers in those areas [the rural area] to promote or facilitate the success of programs implemented under this section. A notice provided under this section expires on the second anniversary of the date the notice was provided. The commission by rule shall define a hard-to-reach area for the purposes of this subsection.

(i-1) The commission shall provide an opportunity for a hearing for a person to contest an electric utility notice provided under Subsection (i). The person who contests the notice has the burden of proving to the commission 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) An electric utility that provides a notice under

Subsection (i) may use the customer identification process established under Section 17.007 for the purposes of Subsection (i). Each electric utility that submits a request to the commission or the Health and Human Services Commission to receive customer information must 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. An electric utility that receives information under this subsection may use the information only to implement a program adopted under this section and may not share or disclose the information to an affiliate or third party unrelated to that purpose.

(j) An electric utility may use energy audit programs to achieve the goal of this section if[+]

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

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

(1) A municipally owned utility subject to Section 39.9051 or an electric cooperative may offer programs described by this section but is not subject to the requirements of this section.

SECTION 2. The Public Utility Commission of Texas shall adopt rules to implement Section 39.905, Utilities Code, as amended by this Act, not later than March 1, 2027.

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

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