

PROJECT NO. 30331

**AMENDMENTS TO ENERGY
EFFICIENCY RULES AND
TEMPLATES**

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

**ORDER ADOPTING AMENDMENTS TO §25.181 AND §25.184
AS APPROVED AT THE AUGUST 18, 2005 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts amendments to §25.181, relating to Energy Efficiency Goal, with changes to the proposed text and §25.184, relating to Energy Efficiency Implementation Project, without changes to the proposed text as published in the June 10, 2005 issue of the *Texas Register* (30 TexReg 3392). The amendments modify the energy-efficiency program under Public Utility Regulatory Act (PURA) §39.905. The amended rules include the adoption of a solar-water-heater program, updating lighting tables to reflect additional energy-efficient lighting options that are available, and increased emphasis on load management. Under the new solar-water-heater program, the rule will provide incentives to assist solar-water-heater manufacturers to train installers and to promote installation of solar-water-heaters. The lighting tables provide calculations of energy savings for various standard offer programs under the rule, and updating the tables will allow additional energy-efficiency fixtures to be used under these programs. The amendments relating to load management will remove limitations in the current rule and should facilitate load-management projects for residential and small commercial customers and additional demand savings from large commercial and industrial customers. The amended rules have been developed with the expectation that utilities may take advantage of the changes in their programs being developed for the 2006 calendar year.

The commission initiated the rulemaking proceeding on October 19, 2004 under Project Number 30331, *Amendments to Energy Efficiency Rules and Templates*. The commission hosted informal workshops on February 23, 2005, April 26, 2005, and May 12, 2005, to solicit input from stakeholders on this rulemaking. In the June 10, 2005 notice published in the Texas Register, the commission offered to conduct a public hearing on July 29, 2005 on this rulemaking if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029; however, the commission received no requests for a public hearing by parties.

Written comments were filed on July 11, 2005. Good Company; Texas Renewable Energy Industries Association (TREIA); Office of Public Utility Counsel (OPC); Texas Ratepayers' Organization to Save Energy (Texas ROSE); Electric Utility Marketing Managers of Texas (EUMMOT), an organization composed of TXU Electric Delivery, CenterPoint Energy, AEP Texas North, AEP Texas Central, AEP Southwestern Electric Power Company, Entergy Gulf States, and Xcel/Southwestern Public Service; Nucor Steel-Texas (Nucor) and the Electric Reliability Council of Texas (ERCOT) filed written comments.

Reply comments were filed on July 25, 2005. Texas ROSE, EUMMOT, Nucor, and Chaparral Steel Midlothian (Chaparral) filed written reply comments.

In general, the comments focused on the proposed changes to the load-management provisions of the rule. The comments that were filed in connection with the solar water heating program and changes to the lighting table supported the adoption of the amendments.

§25.181(e)(3)

Good Company supported increasing the incentive level for load management to 25% of avoided costs; 35% for large commercial and industrial projects in constrained areas; and 55% for small commercial and residential projects in constrained areas. It stated that the more reasonable incentive amounts would facilitate participation by residential and small commercial customers and would improve the overall success of load-management programs.

Nucor stated that an allowed incentive up to 25% of avoided costs would be too small to encourage full participation or to fairly compensate the participants in load-management programs. Nucor agreed with EUMMOT that the proposed change would be an improvement, but Nucor expressed the view that the incentives would be far too low to encourage substantial participation. Nucor explained that it and other industrial loads in ERCOT have operated under interruptible tariffs using under-frequency relays and have proven that they are capable of automatically responding to system disturbances, and are therefore available to interrupt their consumption during any emergency period of high system load.

OPC urged the commission not to increase the incentives for load-management programs and cited several reasons for its opposition. OPC asserted that: increased incentives do not benefit residential customers; residential customers would subsidize industrial customers because of the incentive method; PURA's energy-efficiency goal would not be advanced with an incentive

increase for load-management programs; load-management incentives already exist; and higher incentives are not necessary.

OPC and Texas ROSE stated that load-management programs do not conserve energy or provide societal benefits like energy efficiency, and that the only benefit is a reduction in demand which is already compensated in the ERCOT market when such reduction is necessary.

Chaparral in its reply comments listed several benefits that load management provides for residential and small commercial customers. Chaparral disagreed with OPC that the proposed load-management amendment would duplicate other ERCOT programs, because the Responsive Reserve Service was a market-based ancillary service to maintain system stability and reliability. Chaparral stated that the purpose of Responsive Reserve Service was not to assist with the energy-efficiency goal. Nucor also disagreed with Texas ROSE's position that energy conservation had a higher value than load management, because peak-demand control was critical to the electric system and was important prior to restructuring.

OPC stated that the energy-efficiency statute was enacted to compensate for stranded benefits that resulted from deregulation and to provide an opportunity for energy efficiency to reduce fuel consumption and emissions. OPC argued that it is poor public policy to give additional incentives for load management.

OPC further stated, and Texas ROSE in its reply comments concurred, that the insufficient load management occurring in the ERCOT market may be a sign that the market design is failing, not the incentive levels.

Texas ROSE stated generally that the incentive levels as proposed are artificially high for load management and discriminated against energy efficiency and renewable energy applications.

In support of its position, Texas ROSE presented the results of the New York Energy Smart Program Cost-Effectiveness Assessment study that was prepared for the New York State Energy Research and Development Authority (NYSERDA). Texas ROSE concluded from the study that the proposed amendments to the Texas rules are headed in the wrong direction. Texas ROSE explained that the NYSERDA study employed a Total Market Effects Test and a Program Efficiency Test, the results from which provided benefit-cost ratio values that Texas ROSE believes warrant further analysis of the proposed rule changes.

Nucor disagreed with OPC's argument that market incentives already exist for load management. Nucor stated that the level and type of load management in the market today was a shadow of what existed prior to restructuring, and that incentives today are grossly inadequate. It asserted that previously incentives were generally set close to or at full avoided costs.

EUMMOT disagreed with Texas ROSE's conclusions from the NYSERDA study, in part because of the significant differences between administration of efficiency programs in Texas

and New York. Based on these differences EUMMOT stated that Texas ROSE's comparison is invalid. EUMMOT also argued that Texas ROSE failed to consider that the caps on incentives in the Texas program ensure cost-effectiveness.

EUMMOT argued that the incentive caps in the Texas rule ensure that load-management options have a high benefit-to-cost ratio. In other words, if the cap on incentives is 15% of avoided cost, a utility may spend only \$15 (plus administrative costs) to achieve \$100 of value in demand reductions. If the cap is increased to 25% for industrial customers, then the utility may spend only \$25 (plus administrative costs) to achieve \$100 of value in demand reductions. EUMMOT concluded that Texas ROSE's claim that the NYSERDA study should have a bearing on the Texas rulemaking on load management was unfounded.

Chaparral responded to Texas ROSE's assertion by noting that under the proposed rule amendments, 70% of energy-efficiency measures are dedicated to non-load management. Chaparral stated that the chart on page 10 of Texas ROSE's initial comments, which compared current incentive levels to proposed incentive levels, of 50% for residential and small commercial applications versus 35% for large commercial and industrial applications looked like discrimination against large commercial and industrial customers.

Commission response

The commission concludes that increasing the incentive levels for load management is appropriate, in order to facilitate participation in load-management programs. ERCOT

has reported that reserve margins (the generation resources available compared to the expected demand for electricity) have narrowed recently, as a number of generating units have been withdrawn from operations, either temporarily or permanently. The primary reason for modifying the rule to increase load management is to help ensure that there will be adequate generating capacity to meet demand in the next few years. Under the existing load-management rules, only TXU Electric Delivery has offered a load-management program, and its program has been limited to industrial customers. Additional load-management programs in the TXU area and other areas of the state should enhance reliability of electric service for all customers.

The commission disagrees with the arguments of OPC and Texas ROSE that the higher incentives for load management do not provide benefits to residential customers or will result in inequities in the energy-efficiency program. To the extent that load-management programs are successfully employed to avoid curtailing customers' electric service, residential customers will benefit.

Additionally, the increased incentive levels will facilitate the deployment of load-management programs among residential and small commercial customers. In order for these customers to find such programs advantageous, energy service companies must provide benefits that these customers can realize and will elect to participate in. Residential customers have not participated in load-management programs at the lower incentive levels under the current rule, but participants in the workshops expressed the

view that the higher incentive levels would be sufficient to develop load-management programs for residential and small commercial customers. In addition, the energy-efficiency rule and the utilities' implementation of the rule are based upon equity: programs are to be available to all customer classes and the equitable allocation of resources can be assessed by review of the utilities' plans and reports. The proposed changes in the incentive levels and the other changes in the rule that are being adopted will not change these program requirements. Finally, the OPC argument is focused on the energy savings of individual customers. If the energy savings are considered the benefits provided by the program, then only a small number of customers receive a benefit. For example, for every new home that is built to higher energy-efficiency standards using utility incentives under this program, there are thousands of residential customers who contribute to the energy-efficiency program through their electricity costs, but who do not participate in an energy-efficiency program. The load-management programs are, in a sense, more equitable, because the benefit they provide is the extra measure of reliability that is afforded to all customers.

OPC and Texas ROSE also argued that load-management programs do not conserve energy or provide societal benefits and are, therefore, not appropriate under the energy-efficiency program. As originally adopted, the statute on which the program is based, PURA §39.905, may have implied that any measures adopted to implement it were required to provide energy savings. Despite this argument, the commission included a limited load-management program in the rule that was initially adopted to implement the

statute. In the recently-concluded regular session of the Texas Legislature, §39.905 was amended in a way that removes any legal argument that load-management programs are not permitted under the statute because they do not result in energy savings. Amended §39.905 expresses the legislature's goal that customers have access to energy-efficiency alternatives that allow customers to “reduce energy consumption, peak demand, or energy costs.” (Emphasis added.)

It is true, as OPC argues that the ERCOT market compensates for demand reductions, the Responsive Reserve Service. The load that is eligible to be selected in the ERCOT Responsive Reserve market, under the current rules, is limited to 1,150 MW. In addition, customers contract to provide this service on a day-to-day basis, while the load-management resources that would be acquired under the energy-efficiency rule would be longer-term resources. The commission concludes that the proposed amendments to §25.181(e)(3)(C) and (D) will be beneficial, because utilities will have the opportunity to contract for and achieve long-term demand response, beyond the demand response that ERCOT acquires in the Responsive Reserve market. The demand response that is acquired under the energy-efficiency rule should enhance the reliability of the electrical network in ERCOT.

The commission disagrees with Texas ROSE's summation and comparison of the New York demand-side management program to the Texas programs, because the Texas program is based on cost-effective measures applied at various incentive levels to all

customer classes. The commission finds that Texas ROSE is comparing programs that have not necessarily been developed with similar baseline information or goals; thus, Texas ROSE's conclusion is in error.

The commission disagrees with Nucor that allowing incentives for up to 25% of avoided costs is too small to encourage full participation or to fairly compensate the participants. Load-management demand reductions from industrial customers have been achieved with the current 15% incentive. Participants in the workshops were optimistic that the proposal to increase incentive levels by the amounts specified in the proposed rule should be adequate to increase participation by industrial customers and promote participation by other types of customers as well. The commission believes that the appropriate measure for whether the incentives fairly compensate customers who participate in a demand reduction program is whether customers decide to participate. They have participated at the prior compensation level, and the commission believes that additional customers will be willing to participate at compensation levels based on the raised caps in the proposed rule.

§25.181(e)(3)(C) and (D)

ERCOT suggested that the annual report regarding transmission system enhancements and congestion management, that is required by proposed §25.181(e)(3)(D), be combined with the report that PURA mandates ERCOT file annually on October 1.

Commission response

The commission agrees with ERCOT's suggested change to the proposed rule and supports the consolidation of resources in meeting the reporting requirements under PURA §39.155 and the proposed §25.181(e)(3)(D).

§25.181(h)(2)(F)

OPC stated that the increased incentives do not benefit residential customers, and that residential customers would cross subsidize industrial customers because of the method by which energy-efficiency costs are allocated. In reply comments, Texas ROSE expressed support for OPC's position that increased spending on load management would be at the expense of residential and small commercial customers and only benefit large industrial customers. Good Company also expressed concern that the load-management programs would be used exclusively by commercial and industrial customers.

EUMMOT disagreed with OPC that residential and small commercial customers would pay for programs that benefit industrial consumers, because utilities allocate budgets among customer classes identified in the rule and then among programs. Additionally, EUMMOT explained, the rules provide protection by requiring that each customer class receives an equal amount of funds for incentives as well as requiring utilities to provide at least 5% of their goals through hard-to-reach energy-efficiency projects. EUMMOT explained that the cost to all ratepayers can be reduced by greater use of load-management programs, since load management produces demand reduction at a lower cost per kW than other programs. EUMMOT went on to describe that the

TXU Electric Delivery load-management program was implemented at a cost below \$160/kW compared to a utility average of \$600/kW to meet their annual energy-efficiency goals. EUMMOT stated that an additional 15 MW demand reduction achieved through the proposed load-management amendment would represent a savings of \$6.6 million to ratepayers.

Nucor also disagreed with OPC that residential customers would not benefit from the proposed amendments. Nucor explained that all customers depend on a reliable electric grid, power at peak times, and therefore everyone benefits from maintaining an adequate reserve in ERCOT.

Good Company expressed concern that the current funding for energy efficiency was insufficient as evidenced by oversubscribed programs or programs sold out quickly.

Commission response

The commission does not agree with OPC's assertion that the proposed amendments related to load management will benefit only the commercial and industrial customer classes and that the residential customer class will pay for programs that will not benefit them. As is noted above, the primary purpose of the changes is to enhance reliability of electric service for all customers. In addition, there are provisions in the rule for ensuring equitable participation of all customer classes in the programs.

The commission does not agree with Good Company's assertion that the energy-efficiency funding is insufficient. The incentives provide the market with opportunities to select and

implement projects that are cost effective. During the workshops, there was some discussion of the fact that funding for some programs is quickly reserved, and that funds for such programs are not available after that point. The utilities recognize that the incentive caps permit them to offer lower incentives, if appropriate, and they are likely to adjust the incentive levels to match the demand for incentives by customers and energy service providers. The rule retains a cap on the amount of demand savings that can be achieved through load-management programs, so there will not be any significant diversion of funds from programs that focus on energy savings to the programs that focus on demand savings.

The amendments to §39.905 passed in the 79th legislative session clearly indicate that options that reduce demand are appropriate for all customer classes. The proposal to adjust incentive levels is an appropriate method to control program costs and offer load management to classes other than the industrial classes.

§25.181(h)(2)(H)

Good Company asserted that increasing the maximum percentage of MW achievable through load-management programs from 15% to 30% could reduce spending on energy-efficiency programs by \$12 to \$15 million. Nucor stated that the proposed changes to §25.181, increasing the allowable load-management demand reduction to 30%, still leaves many hundreds of megawatts of potential demand reduction unrealized. Texas ROSE stated that the 15% limit on load management is prudent and in the best interests of residential and low-income consumers

and is also in compliance with PURA §39.905. Texas ROSE therefore stated that it cannot support any increase in load-management savings above 15%.

Commission response

The adoption of these amendments represents a development of the energy-efficiency program to increase the level of load management that is permissible. This progression is appropriate, in light of the lower reserve margins in ERCOT. Load management has proven to be a cost-effective measure, and, as is noted above, the amendments to §39.905 adopted in the recent legislative session support the commission's conclusion that load management is an appropriate measure.

Prior to the introduction of retail competition, a number of utilities in Texas offered interruptible service at rates that were lower than the firm rates for industrial customers, where the discount to the firm rate was ostensibly based on the value of the ability to interrupt service provided to the utility. With limited regulatory resources, it was difficult to ensure that the rates for these services were reasonable. In the retail competition environment, industrial customers who have the ability to adjust the level of their consumption should have the ability to decrease consumption when prices are high and increase consumption when they are low. The ERCOT Replacement Reserve market also affords large customers an opportunity to be compensated for being available as a demand response resource.

The commission's energy-efficiency programs are not intended to be an industrial interruptible-load program, and §39.905 does not call for such a program. Rather, the statute contemplates that the utilities will acquire cost-effective energy-efficiency resources under standard offer programs. The emphasis of the program is not replicating the industrial interruption programs that were available before competition but acquiring energy efficiency in an equitable and cost-effective manner.

§25.184(c) Solar-water-heater Market Transformation Program

TREIA, Texas ROSE, EUMMOT, and Good Company supported the adoption of the proposed Solar-water-heater Program under §25.184.

§25.184(d)(2) and (3) Stipulated Values and Measurement and Verification Procedures and Update Lighting Tables

Good Company supported the changes to the deemed savings and measurement and verification guidelines.

Texas ROSE recommended the measurement and verification guidelines and the deemed savings be reviewed by an independent contractor or by a qualified member of the PUC staff.

EUMMOT stated that the proposed updates to the deemed savings are intended to reflect the recent introduction of new lighting technologies. EUMMOT also stated that prior to July 2003 the commission approved program guidelines and procedures for measuring and verifying

savings from energy-efficiency programs based on petitions filed by various parties. EUMMOT also stated that after July 2003 the commission determined that the procedures and guidelines were to be codified and at the time the Measurement and Verification Guidelines were inadvertently omitted from the documents submitted for inclusion in §25.184.

Commission response

The deemed savings values were developed through a lengthy process involving ESCOs, utilities, and consumer advocacy groups. This rulemaking proceeding was initiated with the objective of ensuring that the deemed savings reflect market realities and correspond with changes in available technology.

The commission agrees with Texas ROSE's recommendation that an independent review of the deemed savings be accomplished. On July 27, 2005 the commission issued a request for proposal, under Project Number 30170, for an independent measurement and verification of the energy-efficiency programs with a preliminary report expected April 21, 2006.

Comments of General Support

TREIA stated that it has no opposition to the proposed amendments to §25.181. EUMMOT stated its support of the proposed load-management amendments, and expressed its view that load management is cost-effective. EUMMOT stated that the TXU Electric Delivery load-management program was implemented at a cost below \$160/kW compared to a utility average of \$600/kW to meet their annual energy-efficiency goals. EUMMOT stated that an additional 15

MW of demand reductions from the proposed load-management amendment would represent a savings of \$6.6 million to ratepayers.

Amendments as a Short-Term Solution

Good Company urged the commission to establish a separate load-management goal and programs. Good Company recognized the benefits of effective load management to include reduction in peak demand, improved grid reliability, decreased congestion, and reduced costs for the Texas market. However, Good Company viewed the current project as a short-term solution, and urged the commission to adopt a long-term solution to achieve robust energy-efficiency savings to benefit grid reliability, transmission congestion, air and environment, investor-owned utilities (IOUs), and all ratepayers.

Nucor stated that load management deserves a program dedicated to the specific issue of capturing the value of load management in the restructured environment, and Nucor believes that the commission should implement a new load management and emergency curtailment program within the next year. Nucor stated that the proposed expansion would be an improvement, but not a solution, to the problem it described as the loss of interruptible load in ERCOT as a result of restructuring. Nucor stated that the ERCOT Load Acting as Resource program is not an effective long-term load-management program and is voluntary on an hour-by-hour basis.

Texas ROSE in its reply comments agreed with Nucor's position that a separate load-management rule be developed.

Commission response

The commission agrees with Good Company's view that load-management programs do reduce demand, enhance reliability, and decrease cost. At this time the commission disagrees that a separate demand-reduction program should be implemented. The statutory basis for the energy-efficiency program is PURA §39.905, which as amended by the 79th legislature, specifically includes demand-reduction as a goal. With respect to Nucor's comments, the modifications to the load-management program should make available to industrial customers additional opportunities for long-term demand reduction. While the higher incentive levels may not be as high as Nucor desires, the commission believes that they will be high enough to attract additional industrial customers to provide a load-response resource. The commission believes that modifying the current rules under §25.181 and §25.184 will fulfill the goal of the amended statute and avoid the additional associated costs of creating a new program.

Increase Overall Goal

Good Company expressed its belief that the overall energy-efficiency goal should be increased; the IOUs should be provided cost recovery as well as a rate of return on energy efficiency achieved above the current 10%; and the investments would be risk-neutral in terms of recovery and would compete more effectively with other transmission and distribution solutions.

Commission response

The Good Company recommendations are beyond the scope of the proposed rule, and it would not be appropriate to adopt them without issuing a separate proposal on which all interested persons had an opportunity to provide comments. Moreover, funding for the energy-efficiency programs is provided for in the utilities' rates, based on achieving the statutory goal of a 10% reduction in annual growth in demand.

General Comments

Texas ROSE expressed its discontent of the characterization of the impacts of the proposed amendments as they are stated in the preamble. Texas ROSE also explained its opinion that energy-efficiency programs have a higher value than load management programs. Texas ROSE stated that studies of customer energy efficiency and load-management programs have shown that energy efficiency as currently defined by the PUC's energy-efficiency rule has a higher value than load management. Texas ROSE went on to state that, despite findings that energy efficiency is a better investment than load management, the commission looks to forge ahead without any convincing evidence that load management is indeed the better option to pursue. Chaparral replied that the legislature believes that reducing peak demand is just as important as reducing energy consumption. Texas ROSE, in its reply comments, also asserted that the rule as proposed would displace energy-efficiency resources in favor of load management when the commission should be adding the load-management option to existing energy-efficiency options.

In its reply comments, Texas ROSE also stated that EUMMOT provided no evidence that expanding the load-management program at the expense of long-term energy efficiency is in the best interest of consumers or in establishing long-term capacity reserves.

Commission response

The relative value of energy savings and demand savings are addressed above. The commission concludes that in a period of low reserve margins, demand savings have significant value. In addition, the changes in PURA §39.905 support the decision to increase the emphasis on demand savings. Even with the changes adopted in this rule, load-management programs will not account for more than 30% of a utility's savings.

All comments, including any not specifically referenced herein, were fully considered by the commission.

This amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2005) (PURA) which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and specifically, PURA §39.905, which require(s) the commission to provide oversight and adopt rules and procedures, as necessary, to ensure that the goal for energy efficiency is achieved.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §39.905.

§25.181. Energy Efficiency Goal.

(a)-(d) (No change.)

(e) **Cost-effectiveness standard.**

(1) (No change.)

(2) **Avoided cost.** Incentives shall be set as a percentage of the avoided cost. The avoided cost shall be the estimated cost of a new gas turbine.

(A)-(B) (No change.)

(3) **Incentive Levels**

(A) The incentive levels for each customer class shall be a percentage of the avoided cost set forth in subsection (e) of this section. The incentive levels for individual programs shall be set by each utility subject to the incentive ceilings outlined below and other provisions of this section. Utilities may adjust incentive levels for individual programs during the program year, but such adjustments must be clearly publicized in the program application guidelines. Except as provided in subparagraphs (B) through (D) of this paragraph, incentive levels for standard offer programs may not exceed:

(i) 100% for hard-to-reach customers.

(ii) 50% for other residential and small commercial customers.

(iii) 35% for large commercial and industrial customers, except for load management programs which may not exceed 25%.

- (B) The utility may apply an environmental adder of up to 20% above the cost effectiveness standard prescribed in subparagraph (A) of this paragraph for targeted projects conducted in an area that is not in attainment for air emission that is subject to the regulations of the Texas Commission on Environmental Quality (TCEQ). The environmental adder is available only for targeted energy efficiency projects that would not be implemented without the adder. Projects receiving incentives under subparagraphs (C) or (D) of this paragraph are not eligible to receive the environmental adder.
- (C) For load management projects implemented in areas of transmission or distribution system constraints outside of the ERCOT power region, the utility may identify areas where transmission or distribution system enhancements could potentially be avoided or deferred or where congestion management costs could be reduced as a result of load management. The utility may increase the incentive for targeted load management projects in such areas. The increased incentive is available only for targeted load management projects that would not be implemented without the higher incentive. The incentive for load management programs targeted to transmission or distribution constrained areas shall not exceed:
- (i) Large Commercial and Industrial projects: 35%.
 - (ii) Residential and Small Commercial projects: 55%.

(D) The ERCOT independent system operator on an annual basis shall identify areas where transmission system enhancements could potentially be avoided or deferred or where congestion management costs could be reduced as a result of load management. Such information shall be provided by ERCOT to the utility and to the commission by October 1 of each year for the following year. In addition, the utility may identify areas where distribution system enhancements could potentially be avoided or deferred as a result of load management. The utility may increase the incentive for targeted load management projects in such areas. The increased incentive is available only for targeted load management projects that would not be implemented without the higher incentive. The incentive for load management programs targeted to transmission or distribution constrained areas shall not exceed:

- (i) Large Commercial and Industrial projects: 35%.
- (ii) Residential and Small Commercial projects: 55%.

(f)-(g) (No change.)

(h) **Energy efficiency plans.**

(1) (No change.)

(2) **Energy efficiency plan.** Each electric utility's energy efficiency plan shall describe how the utility intends to achieve the legislative mandate and the requirements of this section. Beginning January 1, 2002, the plan shall be on a calendar year cycle and shall project at least a four-year period. The plan shall

propose an annual budget sufficient to reach the 10% legislative goal by January 1, 2004, and annually thereafter. Each electric utility's energy efficiency plan shall include:

(A)-(E) (No change.)

(F) The proposed annual budget required to implement the utility's standard offer program, market transformation program, or both, broken out by program for each customer class, including hard-to-reach customers, and the amount for the small contractor set-aside pursuant to subsection (i)(4) of this section. The proposed budget should detail incentive payments, utility administrative costs, including the independent M&V expert, and the other administrative functions pursuant to subsection (i)(1) of this section, and the rationale and methodology used to estimate the proposed expenditures.

(G) Savings achieved through programs for hard-to-reach customers shall be no less than 5.0% of the utility's total demand reduction goal.

(H) Savings achieved through load management programs, including interruptible rates, may not exceed 30% of the utility's total demand reduction goal.

(I) A discussion of the types of informational activities the utility plans to use to encourage participation in standard offer programs or market transformation programs, including the manner in which utilities will use to post notice of standard offer programs, market transformation

programs, and any other facts that may be considered when evaluating a project.

(3)-(4) (No change.)

- (i) **Utility administration.** Utilities shall administer standard offer programs, market transformation programs, or both, to meet the requirements of the energy efficiency goal in PURA §39.905. The cost of administration may not exceed 10% of the total program costs.

(1)-(2) (No change.)

- (3) The utility shall compensate energy efficiency service providers for energy efficiency projects in accordance with the contract and the requirements of this section. An individual energy efficiency service provider and its affiliates may not receive more than 20% of the total incentive payments available for a particular standard offer program, unless the program is not fully subscribed after 180 days, and the utility has demonstrated that it has performed adequate outreach. This requirement is not applicable to a load management program.

(4)-(8) (No change.)

- (j)- (p) (No change.)

§25.184. Energy Efficiency Implementation Project.

(a)-(b) (No change.)

(c) **Templates.** This section includes the following program templates:

(1)-(12) (No change.)

(13) Solar Water Heater Market Transformation Program.

Figure: 16 TAC §25.184(c)(13)

(d) **Deemed Savings Estimates.** This section includes the following Deemed Savings Estimates:

(1) (No change.)

(2) Measurement and Verification Guidelines and Stipulated Values.

Figure: 16 TAC §25.184(d)(2)

(3) Standard Fixture Wattages.

Figure: 16 TAC §25.184(d)(3)

(e) (No change.)

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §25.181, relating to Energy Efficiency Goal, is hereby adopted with changes to the text as proposed; §25.184, relating to Energy Efficiency Implementation Project, is adopted with no changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 23rd DAY OF AUGUST 2005.

PUBLIC UTILITY COMMISSION OF TEXAS

JULIE PARSLEY, COMMISSIONER

PAUL HUDSON, CHAIRMAN

BARRY T. SMITHERMAN, COMMISSIONER