SPEER

The South-central Partnership for Energy Efficiency as a Resource

SPEER Commission on Texas Energy Efficiency Policy

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About the South-central Partnership for Energy Efficiency as a Resource (SPEER)

SPEER is a regional non-profit organization dedicated to increasing and accelerating the adoption of energy efficient products, technologies, and services in Texas and Oklahoma. Much of SPEER's work focuses on finding the best market-based approaches to increase energy efficiency and overcoming persistent market barriers. The views expressed in this paper do not necessarily reflect the views of all of SPEER's members, funders, or supporters. For more information about SPEER, please visit: www.eepartnership.org

SPEER Commission on Texas Energy Efficiency Policy

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Contributing Staff

Mike Stockard, Oncor Electric Delivery
Darryl Nelson, Oncor Electric Delivery
Steve Beczny, CenterPoint Energy
Andrew Machtemes, CenterPoint Energy
Gilbert Hughes, AEP
Bryan Sams, NRG
Rebecca Zerwas, NRG
John Hall, Environmental Defense Fund
Amy Schmidt, The DOW Chemical Company
Tommy Tyne, Solar City

SPEER Staff

Bob King, CEO
Chris Herbert, Executive Director
Rob Bevill, Policy Manager
Brennan Howell, State and Local Policy Manager

Importance of SPEER's Consensus Building

SPEER's goal is to accelerate the adoption of advanced building systems and energy efficient products and services in the region, which includes both Texas and Oklahoma. SPEER selected individuals for this Texas specific project who have extensive knowledge of the industry. The organizational affiliation of individuals is indicated in this report, but it is done only as an indication of the level of experience and of the differing perspectives included in this process, and does not constitute implicit or explicit endorsement of this report or its contents by their organizations. We appreciate the time that these citizen Commissioners and their staff have contributed to this effort.

Texas' competitive market supports market-based technical and market innovations and continues to be a model for other states and utilities to emulate. It is this opportunity that drives us to continue to consider policy changes or methods that would improve the market in the future, and accelerate investment in energy efficiency. The Commission has been our vehicle for facilitating this discussion and exploration of our shared vision for the future.

Christine Herbert, SPEER Executive Director

2017 SPEER Commission Consensus Statement:

Investor Owned Utilities evaluate various options for delivering safe, reliable and cost effective service. When these utilities identify and stimulate alternative cost-effective, non-traditional infrastructure solutions, such as energy efficiency, that offer the same level of safe and reliable service, these utilities should be allowed cost-recovery and a rate of return for those expenditures as though they were capital investments. The Commission supports awarding financial incentives to Investor Owned Utilities that reduce revenue requirements relative to what they would have been through such investments.

Background on the Commission

In 2014, the SPEER Commission was created to start a dialogue among a select and diverse group of stakeholders about a shared vision for Texas with energy efficiency and the built environment. The result of that first round of meetings was a broad set of consensus policy recommendations, published as the *2015 Recommendations of the SPEER Commission*[1] on Texas Energy Efficiency Policy. One of the several areas addressed by the initial Commission was the role of Electric Utilities in supporting, or incentivizing appropriate investments in energy efficiency by end users, and the impact of the regulatory environment in which utilities operate. The Commission agreed that the state should "Align Electric Companies' Interests with Increasing Efficiency." The Commission specifically recommended that:

> "The PUCT should initiate a rulemaking project instigating a stakeholder discussion of changes needed in our overall approach to utility ratemaking. This should be done in order to explore how Texas can best adapt to the broader market changes underway, and support efficiency and innovation in the marketplace, while protecting the integrity of our public utilities."

In 2015, the Legislature enacted SB 774, which required the Public Utility Commission of Texas (PUCT) or its consultant to conduct a study and make a report to the Legislature analyzing the alternative ratemaking mechanisms adopted by other states. The PUCT retained a consultant to produce the report, and the consultant's recommendations included streamlining the ratemaking process to reduce procedural costs, providing for a periodic review of the prudency of the costs, and using certain types of alternative ratemaking mechanisms that decouple the recovery of costs from variations in load.[2]

Discussing the Utility of the Future

Building on the previous recommendations, the SPEER Commission was reconvened in 2016-17 to focus in on the utility regulatory process in greater detail. It considered the possible need for and impact of modifications to either the revenue recovery or rate design elements of utility rate regulation, specifically addressing the unbundled ERCOT investor-owned utilities. The SPEER staff produced a whitepaper, *Win-Win Utility Regulation in an Era of Energy Innovation* as a means to stimulate discussion among Commission members and suggest possible areas of focus.

[1] https://eepartnership.org/wp-content/uploads/2015/07/SPEER-Commission-on-Texas-EE-Policy-Final.pdf
[2] https://www.puc.texas.gov/industry/electric/reports/scope/2017/2017scope_elec.pdf

At the first SPEER Commission meeting in December 2016, the Commission was joined by Laurence Kirsch, of Christensen Associates, lead author of the report: *Alternative Electricity Ratemaking Mechanisms Adopted by Other States*, commissioned by the PUCT in response to SB 774. Dr. Kirsch discussed the problem of accuracy vs. speed in the ratemaking process. Accuracy involves confirming costs claimed by a utility, and speed involves time and expense to determine rates. He discussed the appropriateness of decoupling, but advocated adoption of straight-fixed-variable rates as the more appropriate means to that end in a competitive market. This presentation was followed by discussion by the Commission.

At the second SPEER Commission meeting, John Shenot, of the Regulatory Assistance Project, provided technical insights to the Commission's explorations, and shared additional information about trends in other states that are challenging the traditional revenue and ratemaking structures.

There was no consensus on the need for decoupling generally at this point in time. There was a very robust conversation around alternative rate designs and their impact on various stakeholders including utilities, competitive retailers, service providers and consumers. There was also no consensus that general changes to the design of the wires charges currently in place are needed today. In all this, the SPEER Commission did not vary from the PUCT in its conclusions reported to the 2017 legislature.

There was, however, a general agreement that increased investment in efficiency, demand response and distributed energy resources could benefit to both the utilities and to consumers. The utilities might use their experience leveraging private sector investment in efficiency, demand response and other distributed energy resources to avoid or defer their own internal costs of providing energy delivery services. Commissioners also recognized that within the existing regulatory construct, however, utilities would have no incentive to actively seek such innovative solutions.

The SPEER Commission members participated in subcommittees to draft consensus language that could be discussed at the third and final meeting for 2017. We very much appreciate the attention and contributions of the citizen members of the SPEER Commission on Texas Energy Efficiency Policy, and offer up their shared vision of our future for whomever may profit by it.

The SPEER Commission members recognize:

- The investor owned utilities (IOUs) are profit making entities with responsibility to their shareholders. At the same time, such utilities are permitted monopoly status for provision of electric delivery service because it serves a public purpose, and it is a more efficient means of providing the infrastructure required to meet a level of service quality and reliability determined appropriate by the state.

- The current regulatory policies allow the IOUs to achieve a level of revenue recovery sufficient to recover costs, plus earn a rate of return on capital investments sufficient to attract the capital required to accomplish this public purpose.

- Consumers are installing an increasing array of distributed energy resources for their own purposes, and that this is introducing complexity and new challenges for the transmission and distribution utilities. On the other hand, actions taken to help direct or shape the growth or use of these emerging distributed resources may allow the IOUs to avoid or defer costs, or provide delivery services more efficiently (with less capital expenditure or lower maintenance expense). Currently, the law prohibits the IOUs from owning such resources or providing customer-owned resource services available in the competitive market. This constraint prevents the IOUs from being able to recover costs and/or from being able to earn a rate of return on investments in distributed energy resources, or on incentives made to stimulate customer investment in distributed energy resources. This is true even where such an alternative would lead to more efficient capital deployment for all customers.

- The IOUs will not have incentive to avoid distribution system investments, or undertake alternatives at sufficient scale through stimulating or implementing energy efficiency measures until regulatory processes reward such actions appropriately. It would be possible, however, for the PUCT to take limited steps without the need for additional legislative direction. The PUCT could, for example, allow utilities to target energy efficiency program spending to cost effectively avoid or defer specific distribution system upgrades and recognize distribution system costs avoided or deferred through implementation of energy efficiency and demand response programs.

Therefore, the following reflects the Commission's consensus view:

Investor Owned Utilities evaluate various options for delivering safe, reliable and cost effective service. When these utilities identify and stimulate alternative cost-effective, non-traditional infrastructure solutions, such as energy efficiency, that offer the same level of safe and reliable service, these utilities should be allowed cost-recovery and a rate of return for those expenditures as though they were capital investments. The Commission supports awarding financial incentives to Investor Owned Utilities that reduce revenue requirements relative to what they would have been through such investments.