



Examining the History of Texas Energy Efficiency Programs

The Effect of Changes in the EERS Goal

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

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I. THE GOAL FOR ENERGY EFFICIENCY: AN OVERVIEW

In 1999, the Texas Legislature took on the task of restructuring the state's electricity sector and as part of that process established a Goal for Energy Efficiency,¹ the first energy efficiency resource standard (EERS) in the country. Generation, retail sales and customer relations were unbundled from the traditional Investor Owned Utilities (IOUs). The transmission and distribution portion of the previously vertically integrated utilities were the only market segment that continued to be regulated, so they were assigned the responsibility of administering the energy efficiency programs needed to meet the EERS.²

While there was not yet an appetite among many industry stakeholders to reduce the total demand for electricity, the Legislature compromised by adopting a goal to reduce the rate of growth. Transmission and distribution utilities were directed to offer incentives sufficient for retail electric providers (REPs) or energy services companies (ESCOs) to reduce commercial, residential, and industrial growth in energy demand by at least 10%. Texas was lauded for taking a bold step to set goals for reduced demand, and the state would later increase the goal twice. But, since 1999, several states have surpassed the Texas Goal for Energy Efficiency. So much so that in the recent American Council for an Energy-Efficient Economy's (ACEEE) ranking of state energy efficiency policy and investment, Texas ranked a middling 27th among the states.³ How did Texas fall from leadership in supporting and implementing cost-effective energy efficiency, and what has been done to advance these goals over the past 18 years?

This brief looks at the original EERS and the changes which have been made to it over the years and considers how those changes effected both energy efficiency program spending and energy savings achieved by Texas' Investor Owned Utilities.

II. THE ORIGINAL TEXAS ENERGY EFFICIENCY RESOURCE STANDARD

In response to SB 7, the deregulation law adopted in 1999, the Public Utilities Commission of Texas (PUCT) adopted rules for Investor Owned Utilities (IOUs) to achieve at least a 10% reduction in their annual growth in demand by January 1, 2004.⁴ To help assure the utilities could ramp up their program administration efforts sufficiently to meet their goal the first year, the Commission adopted a goal of 5% of growth in demand by January 1, 2003. The PUCT defined growth in demand as "the annual increase in load, measured on the transmission system, in the Texas portion of an electric utility's service area at time of peak demand." To help smooth out the annual goal for utilities it was decided that the PUCT would use a 5 year rolling average to define the annual goal. The PUCT indicated the EERS was intended

¹ Texas Utilities Code, Public Utilities Regulatory Act, Section 39.905

² The EERS development process is covered in detail in the [Introduction](#) to this series.; *Introduction: Examining the History of Texas Energy Efficiency Programs*; Rob Bevill, Brennan Howell, Robert King; March 2017

³ *The 2016 State Energy Efficiency Scorecard*; American Council for an Energy-Efficient Economy; Weston Berg, Seth Nowak, Meegan Kelly, Shruti Vaidyanathan, Mary Shoemaker, Anna Chittum, Marianne DiMascio, and Chetana Kallakuri; September 2016

⁴ *Order Adopting New §25.181 relating to Energy Efficiency Goal as Approved at the March 1, 2000 Open Meeting and Submitted to the Secretary of State*, Docket No. 21074, (March 22, 2000). This goal, imposed by the law, required the actual savings be achieved during the year leading up to the first of 2004, or during 2003.



to “achieve the installation of long-lasting energy efficiency measures that will result in reduced energy consumption and lower energy bills of Texas customers.”⁵

In keeping with the authorizing legislation, utilities were required to offer incentives through either standard offers or third-party managed market transformation programs. Standard offer programs make incentives available for any ESCO or REP, and involve a contract with the utility which specifies “standard payments based upon the amount of energy and peak demand savings achieved through energy efficiency measures.”⁶ Standard offer programs are required to be neutral with respect to technologies, equipment, and fuels. Market transformation programs are “strategic programs intended to induce lasting structural or behavioral changes in the market that result in increased adoption of energy efficiency technologies, services, and practices.” These programs tend to promote new technologies or address specific barriers to help enable certain technologies or practices to become a more likely element of a standard offer project.

Incentives were made available only to REPs or ESCOs, rather than directly to customers, because in Texas’s uniquely deregulated electricity sector, customer efficiency services were viewed as a competitive retail activity.⁷ Utilities were required to administer these incentive programs in a “market-neutral, nondiscriminatory manner.”⁸ In addition, some large commercial customers argued successfully that they were sufficiently knowledgeable to serve as their own energy service providers, which the PUCT subsequently accepted.

Stakeholders involved in the 1999 restructuring negotiations envisioned that the competitive REPs would become energy services companies more broadly themselves, and actively assist in the promotion and implementation of services required for utilities to achieve their energy efficiency goals. As it turned out, the REPs would not be very active participants in the programs, for two reasons. First, the overall level of spending required by the state’s relatively modest EERS was insufficient to interest large competitors that might have the technical capacity to offer combined services. This was assured by a PUCT rule requirement that not more than 20% of any program funding could be allotted to any given REP or ESCO. This was instituted to assure that retailers recently or still related to an incumbent utility did not unfairly leverage their relationship to capture a disproportionate share of the funds available. A second reason reported for low participation by REPs was that many consumers preferred to continue to obtain efficiency services from firms that specialize in that arena, with which the customers had a long-standing relationships. Furthermore, REP offerings that have tended to be much less substantial; given the potential for a customer to change REPs relatively easily, and frequently, the potential for stranded investment, or in the alternative, the requirement for a separate financing mechanism from the REP.

One other unique aspect of the Texas EERS was its restriction on the ability of load management programs to contribute toward EERS compliance. In 1999, the PUCT defined load management as “load control activities that result in a reduction in peak demand on an electric utility system or a shifting of

⁵ Pg. 1; *Order Adopting New §25.181 relating to Energy Efficiency Goal as Approved at the March 1, 2000 Open Meeting and Submitted to the Secretary of State*, Docket No. 21074, (March 22, 2000)

⁶ 16 Tex. Admin. Code §25.181(c)(55) (TAC); 16 Tex. Admin. Code §25.181(c)(56) (TAC)

⁷ PURA 35.905(a)(3) and *Order Adopting New §25.181 relating to Energy Efficiency Goal as Approved at the March 1, 2000 Open Meeting and Submitted to the Secretary of State*, Docket No. 21074, (March 22, 2000)

⁸ Public Utility Regulatory Act, Tex. Util. Code, § 39.905(a)(1)(2017)



energy usage from a peak to an off-peak period.”⁹ Load control was defined as “activities that place the operation of electricity consuming equipment located at an electric user's site under the control or dispatch of an energy efficiency service provider, an independent system operator, or other transmission organization.”¹⁰ Consumer representatives convinced the PUCT to limit load management programs from contributing more than 15% towards a utility's total demand reduction goal, because load management programs are an inexpensive temporary shift in power usage, relative to other energy efficiency measures, and have no lasting effect.¹¹ The PUCT agreed utilities should not overly rely on load management programs for EERS compliance at the expense of other efficiency programs which could drive more lasting reductions and long term customer savings. However, during a period of declining reserve margin in ERCOT in 2005, the utilities and what we now call Demand Response (DR) service providers and large customers succeeded in persuading the PUCT to allow load management programs to contribute up to 30% of a utility's demand reduction goal.¹²

While consumers were correct about load management providing only temporary savings that require active response by customers or their service providers, the original load management programs did have some lasting effect. Up until 2006, commercial load management programs were required to have a standard minimum measure life of ten years like other efficiency measures, requiring annual incentive payments for a ten-year contract term. So, each year new load resources would have to be added to those already under contract, for the utilities to capture additional demand reduction credit. In 2005, with the passage of SB 712, however, the Texas Legislature explicitly directed the PUCT to allow a wider variety of efficiency measures, which implicitly forced the commission to allow variable measure lives.¹³ For example, the legislation explicitly designated air conditioning tune-up and tree planting for passive shading.¹⁴ An unintended impact of this change led to a win for utilities and a loss for conservation advocates. This effectively allowed the utilities to reduce the cost of their load management programs, and use the same loads every year to apply to their demand savings, or supercharge their bonus opportunity.¹⁵

III. UTILITY ENERGY EFFICIENCY SPENDING AND SAVINGS FROM 2002-2008

Chart 1, below, displays the total demand (MW) reduction required annually for all Texas utilities, compared to the total achieved demand reductions achieved by those utilities. Examining total achieved energy efficiency reductions from 2002 to 2008, the IOUs were able to collectively meet the required energy efficiency reductions mandated by the EERS. According to individual Texas IOU energy efficiency

⁹ Pg. 155; *Order Adopting New §25.181 relating to Energy Efficiency Goal as Approved at the March 1, 2000 Open Meeting and Submitted to the Secretary of State*, Docket No. 21074, (March 22, 2000)

¹⁰ Ibid

¹¹ pg. 112-114; *Order Adopting New §25.181 relating to Energy Efficiency Goal as Approved at the March 1, 2000 Open Meeting and Submitted to the Secretary of State*, Docket No. 21074, (March 22, 2000)

¹² *Order Adopting Amendments to §25.181 and §25.184 as Approved at the August 18, 2005 Open Meeting*; Docket No. 30331, (August 18, 2005)

¹³ Act of June 17, 2005, 79th Leg., R.S., ch. 328 (SB 712), 958-959; *Order Adopting Amendments to §25.181 and §25.184 as Approved at the August 18, 2005 Open Meeting*; Docket No. 30331, (August 18, 2005)

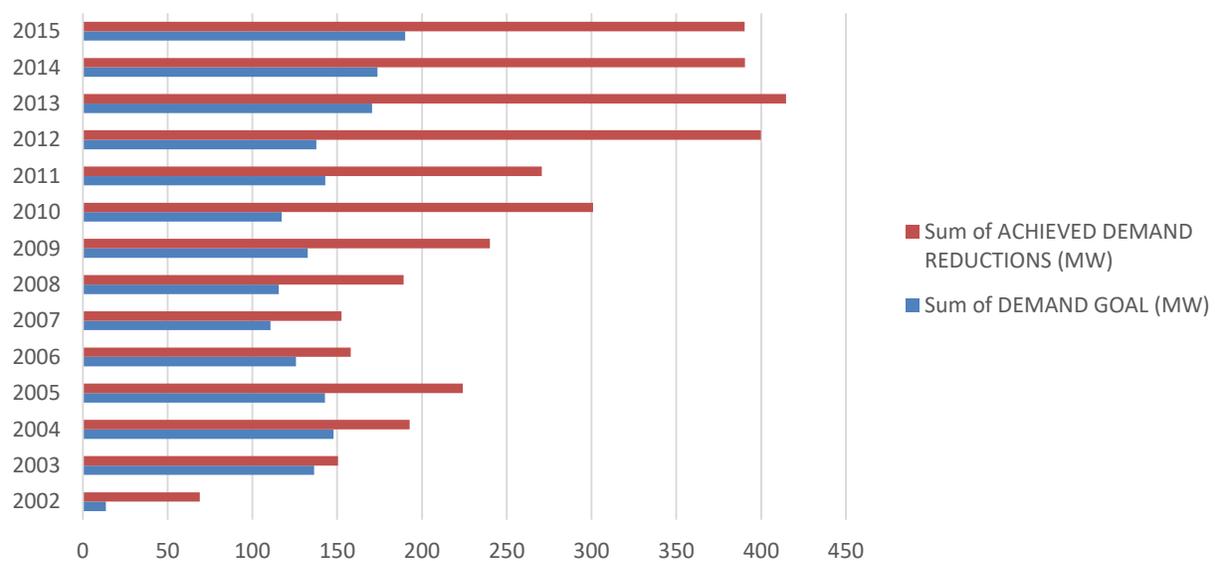
¹⁴ Act of June 17, 2005, 79th Leg., R.S., ch. 328 (SB 712), 958-959

¹⁵ See the *Growth and Impacts of Load Management Programs* SPEER Report focused on load management, for additional analysis of the history and impact of this change.



program data compiled by SPEER, in the years from 2002 to 2008 only the smaller utilities struggled to meet the required reductions. Two assessments of Texas energy efficiency programs performed by independent third parties¹⁶ indicated that a cap on spending related to administration of energy efficiency programs may have been especially debilitating for smaller utilities, because the cap was based on a fixed percentage of their total budget, constraining their ability to meet the required goals. Furthermore, Itron's assessment of Texas energy efficiency programs released in 2008¹⁷ indicated that the way Texas calculated its reduction goals tended to produce drastically increased reductions for smaller utilities, relative to the bigger utilities, because the smaller utilities could more easily exhibit higher peak demand growth rates from their smaller customer base.

Chart 1: Total Annual MW Goals vs. Achieved MW for All Utilities
2002 - 2015



The largest IOUs were able to meet, and substantially exceed, the reductions required during this time period. In fact, Itron's assessment indicated the 10% goal in place during this time period could be increased to 20%, or more, at little extra net cost, indicating the goals could be more ambitious. The fact that the largest utilities were able to achieve substantially more energy efficiency than required is why Chart 1 shows Texas utilities collectively surpassing the required demand reductions.

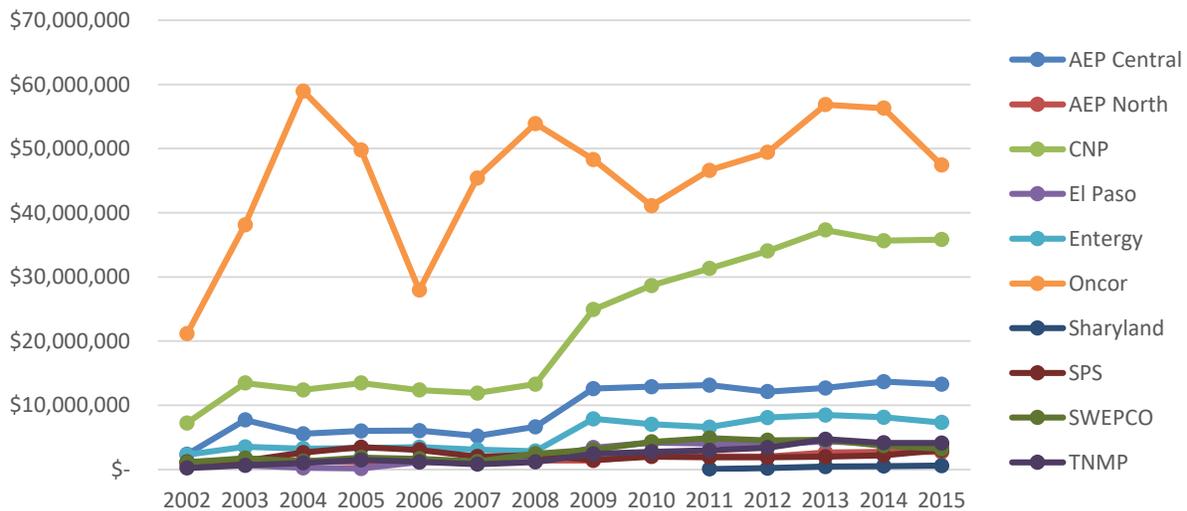
¹⁶ Independent Audit of Texas Energy Efficiency Programs in 2003 and 2004, prepared by Summit Blue Consulting; https://www.puc.texas.gov/industry/projects/electric/38578/EEP_Audit_Rpt_03-04.pdf; Assessment of the Feasible and Achievable Levels of Electricity Savings from Investor Owned Utilities in Texas: 2009-2018, prepared by Itron, Inc. https://www.puc.texas.gov/industry/electric/reports/misc/Electricity_Saving_2009-2018_122308.pdf

¹⁷ Assessment of the Feasible and Achievable Levels of Electricity Savings from Investor Owned Utilities in Texas: 2009-2018, prepared by Itron, Inc.

https://www.puc.texas.gov/industry/electric/reports/misc/Electricity_Saving_2009-2018_122308.pdf

Chart 2, below, shows the energy efficiency program spending for each IOU from 2002 to 2015. During the first two years after implementation of the EERS in 2002, spending on energy efficiency programs ramped up as the goal increased from 5% to 10% of the rate of growth in demand.

Chart 2: Total Annual EE Program Expenditures by Utility
2002-2015



TXU Energy Delivery (known as Oncor after 2007) reported a pronounced rise and fall in program spending is explained in the energy efficiency program report the utility filed in 2007.¹⁸ TXU had budgeted 43 million for 2006 energy efficiency program spending, but only spent around \$29 million on energy efficiency programs. The report indicated the reason for this was unspent money set aside to comply with the SB 712 provisions to fund research and development activities and changes in the Texas Department of Housing and Community Affairs Low-Income Weatherization Program. If TXU had spent the amount of money budgeted for 2006, the fluctuation in spending between 2002 and 2008 would not look nearly so dramatic.

IV. LEGISLATIVE AND ADMINISTRATIVE CHANGES MADE TO THE EERS IN 2007-2011

Legislative Changes to EERS

In 2007, Texas Legislature was persuaded to increase the EERS as part of HB 3693, which ramped up the energy efficiency goal from 10% of demand growth in 2007, to 15% in 2008, and finally to 20% by 2009.¹⁹ This legislation also directed the PUCT to undertake a study of the full potential of energy efficiency

¹⁸ TXU Electric Delivery Company, Annual Energy Efficiency Report to the Public Utility Commission of Texas in Accordance With Substantive Rule §25.1 81 (h)(4) and §25.1 83(d)(2),(3); Filed April 1, 2007; PUCT Project No. 33884

¹⁹ Act of June 15, 2007, 80th R.S., ch. 939, (HB 3693), 2007 Tec. Gen. Laws 3241-3256



programs and to report further recommendations to the Texas Legislature prior to the 2009 session with respect to the EERS.

In addition to ramping up the goal, the new law allowed utilities to earn a bonus if they exceeded their goals. The bonus was put in place in recognition that the utilities experience a revenue loss associated with increased efficiency which their own programs stimulate. It was developed as a method to encourage the utilities to support and potentially exceed the goal.

However, not all the changes required by HB 3693 enhanced the EERS. Large industrial customers argued that they invest in efficiency, as a matter of course, because of their internal incentive to improve their own bottom line and competitiveness, and are not motivated by utility incentives. Energy efficiency programs are funded through a rate-payer fee assessed as part of a customer's delivery charge, and the industrial customers also argued that the companies that invested their own capital should not have to subsidize their competition. As a result, HB 3693 carved industrial customers out of either contributing to, or participating in the energy efficiency programs.²⁰ This removed a significant source of funding for the programs. The PUCT had already restricted spending such that funds collected from each rate class should be spent only on that rate class, so exempting industrials from contributing only eliminated spending on industrials, which is in itself balanced. However, this further challenged the utilities to effectively administer cost effective programs, because administrative funds were limited to a percentage of overall budgets. This had the effect of reducing their staffing, administrative, and research budgets by 30%. While the industrial customers may privately invest in energy efficiency, there is no data available to demonstrate the level of this investment or the amount of savings that this sector contributes to the reduction of energy demand, much less the level achieved relative to the potential in this sector.

Administrative Changes to EERS

In 2008, the PUCT adopted several administrative rule changes to implement the changes required in HB 3693. In addition, on its own accord, the Commission undertook the adoption of an energy savings (MWh) goal, to complement the demand (MW) reduction goal, by adopting a capacity factor requirement, as a way to encourage a minimum of long-term energy savings.²¹ Driven by concerns about low capacity reserve margins in ERCOT at the time, they adopted a modest 20% capacity factor, to not bias utilities away from demand response programs, but to also balance that with efficiency measures that delivered more consumer benefits. The PUCT defined energy savings at that time as a "quantifiable reduction in a customer's consumption of energy that is attributable to energy efficiency measures."²²

²⁰ Act of June 15, 2007, 80th R.S., ch. 939, (HB 3693), 2007 Tec. Gen. Laws 3241-3256

²¹ *Order Adopting the Repeals of §25.181 and §25.184 and of new §25.181 as Approved at the March 26, 2008 Open Meeting*, Docket No. 33487, (March 26, 2008) A "capacity factor" here just means that for each MW of peak load reduction required, measures installed should also save a MWh for at least 20% of the hours of a year.

²² Pg. 159 ;*Order Adopting the Repeals of §25.181 and §25.184 and of new §25.181 as Approved at the March 26, 2008 Open Meeting*, Docket No. 33487, (March 26, 2008)

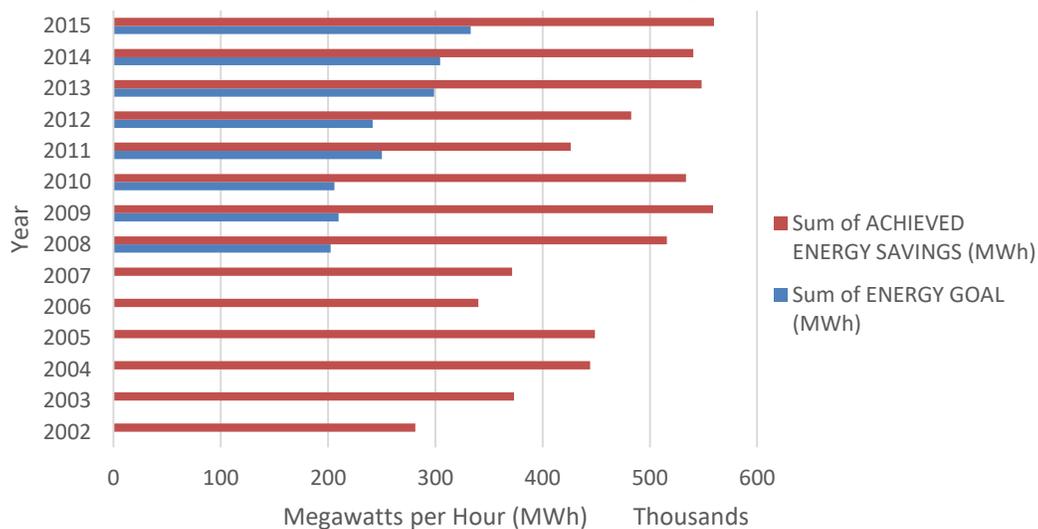


To implement the performance bonus, the PUCT determined that if a utility exceeded 100% of its demand reduction goal, it would be eligible to receive a bonus equal to 1% of the net benefits for every 2% the demand reduction goal has been exceeded. The bonus amount was capped at 20% of total efficiency program costs.²³

In response to volatility in the economy, the PUCT also used its own authority to set a floor (or ratchet), for each utility's goal for energy efficiency, effective in the 2009, which required that a utility's goal could not fall below the prior year's goal, unless granted an exception by the PUCT for good cause. This assured the utilities could depend on a relatively stable program expectations and staff accordingly. The PUCT also required implementation of targeted low-income programs, and increased the maximum incentive payments allowed to 100% of avoided costs, in part to address the difficulty of penetrating the low income and other "hard-to-reach" segments of the market.

In 2010, the PUCT adopted additional modifications to the efficiency rules, increasing demand reduction goals upon its own motion, ramping up from 20% of demand growth in 2010 and 2011, to 25% reduction in demand growth in 2012, and finally to 30% reduction in demand growth for 2013.²⁴ The PUCT also modified the calculation of the performance bonus to require utilities to exceed their energy goal, in addition to their demand goal, in order to be eligible to earn a bonus. Chart 3 demonstrates the ability of the utilities to exceed their energy goal. The PUCT adopted these changes in part due to the realization that growth in electricity demand had slowed substantially.

Chart 3: Total Annual MWh Goal vs. Achieved MWh for
All Utilities: 2002 - 2015



²³ Act of June 15, 2007, 80th R.S., ch. 939, (HB 3693), 2007 Tec. Gen. Laws 3241-3256 *Order Adopting the Repeals of 25.181 and §25.184 and of new §25.181 as Approved at the March 26, 2008 Open Meeting*, Docket No. 33487, (March 26, 2008)

²⁴ *Order Adopting Amendment to §25.181 as Approved at the July 30, 2010 Open Meeting*, Docket No. 37623 (July 30, 2010)

V. IMPACT ON UTILITY ENERGY EFFICIENCY SPENDING AND SAVINGS FROM 2008-2011

Looking at the spending and savings by utilities after the legislative changes of 2007 and administrative changes of 2008, one sees a substantial increase in the energy efficiency program spending, as demonstrated by Chart 2, and an increase in both the achieved demand and energy savings, as indicated by Charts 1 and 3. Outside of Oncor, most utilities increased their energy efficiency program spending relative to previous years starting in 2009. Data compiled by SPEER staff indicates the general rise in achieved demand reductions was consistent for all Texas utilities subject to the EERS.

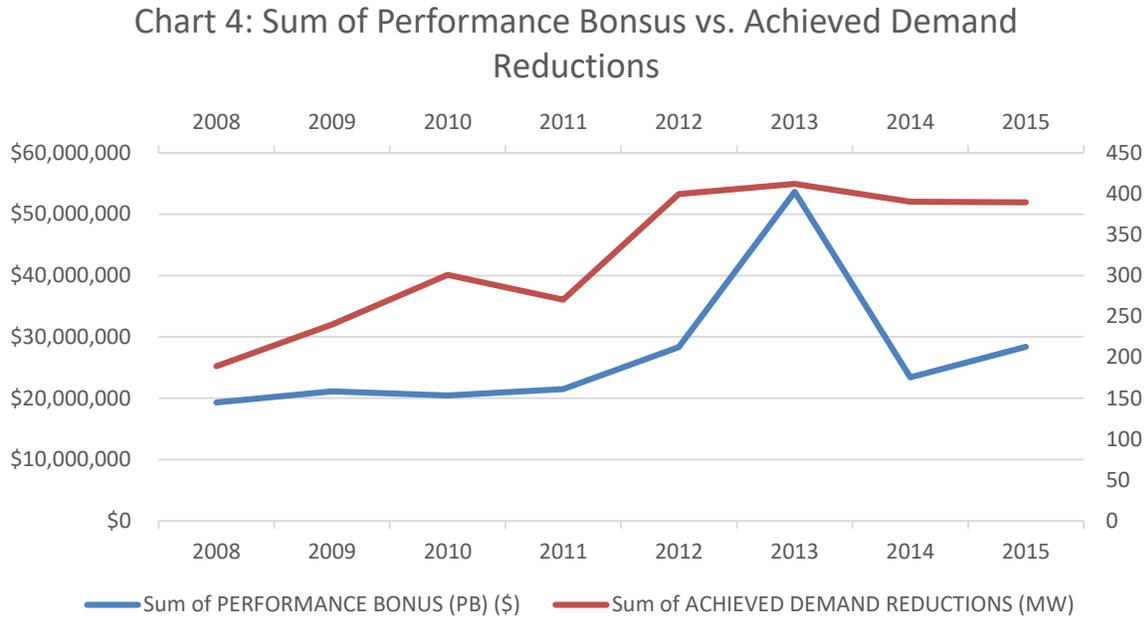
The rise in spending and achieved demand reductions is not likely due to the increase in the EERS standard goals adopted in 2008, because this was during the pit of a national recession. Although growth in demand was positive, it was very modest, and only the ratchet prevented the utilities' annual goal from declining. However, the implementation of the performance bonus and the ramp up of the load management programs contributed to the rise in energy efficiency program costs and achieved savings respectively. These legal and regulatory changes encouraged utilities to achieve substantially more savings than were required of them.

Performance Bonus

The increase in demand reductions in response to the simultaneous forces of increased goals and the potential to earn a significant performance bonus, which not only provided the financial incentive to do more, but also replaced at least some of the lost revenue associated with reduced energy delivery volumes. A bonus amount was based on the previous calendar year's average peak market price.

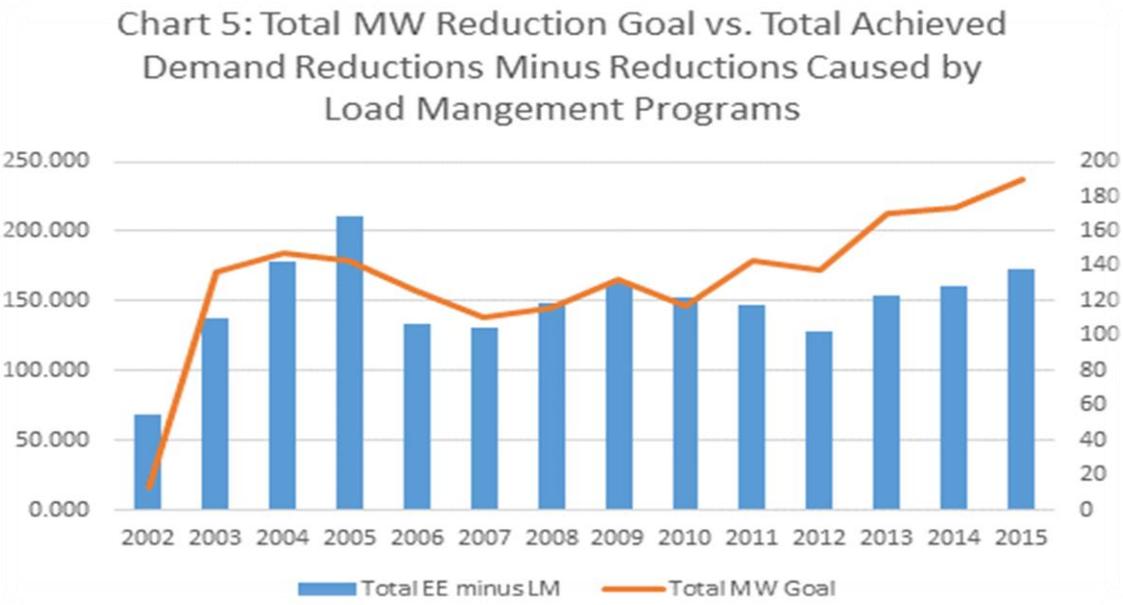
Looking at Chart 4, we note that the sustained heat in 2011-12 was responsible for the peak in bonus payment in 2013, due to rules changed in 2010, which then established the avoided cost of energy as the average of two previous year's peak market pricing and included winter peak. This change to include two years caused the avoided cost to go from \$0.06 in 2012, to \$0.10 in 2013, and back down to \$0.05 in 2014.





Load Management

Chart 5 compares the total demand reduction goal required of all utilities, to the total achieved demand reductions without load management programs. As Chart 5 indicates, utilities did not need to rely substantially on load management programs from 2002 to 2010 to achieve the required demand reductions. It wasn't until 2011 and later, that utilities began to rely more heavily on load management programs to meet and exceed the required demand reduction goals, most likely to maximize their performance bonuses. There is more information on Load Management in our next "Brief" in this series.



VI. LEGISLATIVE AND ADMINISTRATIVE CHANGES MADE TO THE EERS SINCE 2011

Legislative Changes Made to the EERS

In 2011 the Texas Legislature, among other changes, codified the increased demand goals that PUCT implemented in 2010 in SB 1125.²⁵ In addition, the Legislature considered the issue of the volatility of the rate of growth in demand, upon which the original goal had been based. The 2008 evaluation by Itron pointed out that linking the goal to the total level of demand, rather than the more variable “growth in demand,” would provide a more stable base for the utility programs.²⁶ Utilities were also open to such a shift, because in 2011 it appeared the economy might return to a healthier rate of growth, and the goal adopted provided a predictable, moderate cap for savings expectations. SB 1125 determined that when a utility’s 30% of demand growth goal became equal to at least 0.4% of the utility’s summer, weather-adjusted peak demand for residential and commercial load for the prior year, then the utility’s goal would be changed to 0.4% of its peak demand thereafter. SB 1125 allowed for reductions in winter peak to count towards a utility’s demand reduction goal.

To date, Oncor, El Paso, Sharyland, SPS, SWEPCO and Entergy have not met the required threshold and therefore are still required to achieve at least a 30% reduction of demand growth. CenterPoint, AEP North, AEP Central, and Texas New Mexico Power have meet the requisite threshold, and, now have a requirement to reduce summer, weather-adjusted peak demand for residential and commercial load by at least 0.4% of their total regional peak demand.

SB 1125 also required the funding of an independent contractor by the utilities to “ensure that programs are evaluated, measured, and verified using a framework...that promotes effective program design and consistent and streamlined reporting.” Load management was also expanded to allow residential and commercial sector participation, due to development of emerging and more available technologies. SB 1125 also instituted a cap on customer fees that fund the energy efficiency programs.

Administrative Changes Made to the EERS since 2011

The PUCT adopted a number of rule changes to reflect the recent changes in the law. Perhaps most significant were the imposition of per-customer fee limits for each class, limits which are updated periodically by the PUCT.

²⁵ Act of May 28, 2011 82nd R.S.,ch. 180, (SB 1125), 2011 Tex Gen. Law 721-724

²⁶ Assessment of the Feasible and Achievable Levels of Electricity Savings from Investor Owned Utilities in Texas: 2009-2018, prepared by Itron, Inc.

https://www.puc.texas.gov/industry/electric/reports/misc/Electricity_Saving_2009-2018_122308.pdf



Also significant, due to the shift in language setting out that the savings goals apply only to residential and commercial customers, business lobbyists were able to win rule language allowing any company to opt-out of participation, if it were eligible for a manufacturing tax exemption now referenced in the rules.²⁷ The PUCT argued this change was made to help identify “industrial customers that are in rate classes which also include commercial customers,” but regardless of the intent behind the change, the result was that more utility customers were eligible to opt-out of energy efficiency program participation.²⁸ This option is very hard and expensive for the utilities to administer, because the customers opting out may cross several lines within the billing system of a utility. Furthermore, even if it means fewer customers to potentially serve, the cap on per customer charges and withdrawal of more customers from contributing anything to the program administrative costs, has created additional challenges for utilities to maintain a core staff capacity to run programs to meet statewide goals.

The PUCT also changed the cap on the bonus, previously capped at 20% of total utility spending, to 10% of net benefits of achieved savings, including energy and demand. This allows the utilities (see Oncor) to receive higher bonuses when avoided costs went up as seen in Chart 4 for 2013. However, it provided a lower bonus in 2014 when spending was similar and avoided costs dropped. They tied the bonus to customer benefits rather than spending or performance of the utility, in spite of broad opposition.

VII. IMPACT ON UTILITY ENERGY EFFICIENCY SPENDING AND ACHIEVED SAVINGS FROM 2012-2015

The changes made to the EERS did not have a substantial impact on energy efficiency program spending or achieved demand reductions (as indicated in charts 1 and 2). Utilities continued to achieve greater amounts of demand reduction while keeping energy efficiency program spending relatively flat. Oncor funding continued to vary more than that of other utilities for a number of reasons some of which we have discussed, as well as reflecting its regional growth cycles. CenterPoint spending, has been more stable, and modestly increased their respective energy efficiency program spending during this period, while the other, smaller utilities in Texas do not appear to have increased either their energy efficiency program spending or achieved energy efficiency savings significantly since the modest increase in 2009.

VIII. CONCLUSION

Texas took a bold step in evolving utility energy management programs when it became the first state to implement an EERS in 1999. But since that year, a combination of modest growth in electric demand, deliberate exclusion of industrial and certain commercial consumers from the pool of participants, per customer cost caps, and expanding reliance on load management impacts have all combined to turn

²⁷ PURA 35.905(c)(30); *Order Adopting Amendments to §25.181 as Approved at the September 28, 2012 Open Meeting*, Docket No. 39674, (October 17, 2012)); Texas Tax Code §151.317

²⁸ Pg. 52; *Order Adopting Amendments to §25.181 as Approved at the September 28, 2012 Open Meeting*, Docket No. 39674, (October 17, 2012)



Texas's innovative policy commitment into a program with only average impacts compared to other states. ACEEE has ranked the energy efficiency policy and program efforts of each state, and Texas has fallen in rank from 11th in 2006, to 27th in 2016.²⁹ However, we recognize that Texas has a unique market structure, and ACEEE has no means to credit the market offerings of competitive retailers, including the fact that over one million Texans are participating in time of use rates that may impact use patterns.

This drop in ranking does not reflect a lack of opportunity for demand or energy savings. Independent investigations overseen by the PUCT have concluded that Texas has significant untapped potential for additional energy and demand savings.³⁰ And as data reported here indicates, every time the goals have been increased, the larger utilities have had little problem meeting and surpassing those new goals. These programs have proven to be cost-effective, and because such investments benefit both participating customers directly, and all customers indirectly, the state should consider increasing its goal, more in line with that of other populous states.

It was originally envisioned by the legislature, and those stakeholders promoting the EERS, that the new competitive retail suppliers (REPs) would become energy service companies more broadly, offering commodity and associated energy services. It was hoped that they would become active promoters and implementers of the utility-funded programs. We believe that the funding would have to be increased to encourage REPs to gear up to participate in programs and particularly the Standard Offer Programs.

In addition, as noted throughout this paper, the modification of load management programs to allow a one-year measure life provided a low-cost means for the utilities to achieve their demand reduction goal and maximize their performance bonuses. However, this single change did more to reduce the program spending on other efficiency improvements which provide more persistent reductions and greater consumer savings than any other changes to the programs. Because of the impact of the load management programs, we have addressed this issue in a separate paper.³¹

²⁹ *The 2016 State Energy Efficiency Scorecard*; American Council for an Energy-Efficient Economy; Weston Berg, Seth Nowak, Meegan Kelly, Shruti Vaidyanathan, Mary Shoemaker, Anna Chittum, Marianne DiMascio, and Chetana Kallakuri; September 2016; *The State Energy Efficiency Scorecard for 2006*, Maggie Eldridge, Bill Prindle, Dan York, and Steve Nadel, June 2007

³⁰ Independent Audit of Texas Energy Efficiency Programs in 2003 and 2004, prepared by Summit Blue Consulting; https://www.puc.texas.gov/industry/projects/electric/38578/EEP_Audit_Rpt_03-04.pdf. Assessment of the Feasible and Achievable Levels of Electricity Savings from Investor Owned Utilities in Texas: 2009-2018, prepared by Itron, Inc. https://www.puc.texas.gov/industry/electric/reports/misc/Electricity_Saving_2009-2018_122308.pdf

³¹ Growth and Impacts of Load Management Programs. <https://eepartnership.org/program-areas/policy/history-of-energy-efficiency-programs/>

