

PROJECT NO. 28149

**PUC RULEMAKING PROCEEDING TO § PUBLIC UTILITY COMMISSION
AMEND P.U.C. SUBSTANTIVE RULE §
25.453, RELATING TO TARGETED § OF TEXAS
ENERGY EFFICIENCY PROGRAMS §**

**ORDER ADOPTING AMENDMENTS TO §25.453 AS APPROVED
AT THE DECEMBER 18, 2003 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts amendments to §25.453, relating to Targeted Energy Efficiency Programs, without changes to the proposed text as published in the October 3, 2003, issue of the *Texas Register* (28 TexReg 8481). The Legislature did not allocate a portion of the System Benefit Fund for fiscal years 2004 and 2005 to targeted energy efficiency programs administered by the Texas Department of Housing and Community Affairs (TDHCA). Therefore, the amendments terminate TDHCA's responsibilities for developing and maintaining the low-income energy efficiency plan formerly required by §25.453 and retains only the reporting requirements for the current fiscal year. The amendments are adopted under Project Number 28149.

The commission received one written comment on the proposed amendments. CenterPoint Energy Houston Electric, LLC (CenterPoint Energy) filed the comment on November 3, 2003.

CenterPoint Energy noted that the proposed amendment requires that the final report from the TDHCA be filed April 1, 2004. CenterPoint Energy suggested that TDHCA's deadline be earlier in time—March 1, 2004—to give transmission and distribution utilities (TDU) an opportunity to incorporate the information in TDHCA's report into the TDUs' own energy efficiency reports.

Commission response

The commission declines to make the change CenterPoint Energy requested. Section 25.453(h)(1)(D), as it currently exists, requires TDHCA to file its final report “[n]o later than April 1, 2003, and annually thereafter.” The proposed amendments to §25.453 provide that the final report shall be due April 1, 2004, acknowledging the fact that, for the past three years, TDHCA’s annual report has been due April 1. While CenterPoint Energy may consider it potentially advantageous to be apprised of TDHCA’s report information before April 1, 2004, for the purposes of demonstrating the TDU’s own compliance with other commission rules, TDHCA and the commission have an established *modus operandi* which calls for submission of TDHCA’s annual report by April 1. CenterPoint Energy and other TDUs have complied with the energy efficiency reporting requirements for several years without necessarily having access to TDHCA’s final report in advance of the TDUs’ own report deadlines. Adjusting that deadline in the present rulemaking project to provide TDHCA less time to prepare its report would disrupt the working schedule TDHCA has developed in reliance on the April 1 deadline currently in effect. Such disruption to TDHCA’s working schedule is unnecessary.

It should be noted that nothing in the rule prevents TDHCA from filing its final report in advance of the April 1, 2004, deadline. The commission will notify TDHCA of CenterPoint Energy’s request that the final report be filed before April 1, 2004.

The amendments are adopted under Public Utility Regulatory Act (PURA), Texas Utilities Code (Vernon 1998, Supplement 2004) §14.002, which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and

jurisdiction, and specifically, PURA §39.903, which requires the commission to adopt rules regarding programs to assist low-income electric customers on the introduction of customer choice.

Cross References to Statutes: Public Utility Regulatory Act: §§ 14.002 and 39.903.

§25.453. Targeted Energy Efficiency Programs.

- (a) **Purpose.** This section provides for the reporting requirements related to targeted energy efficiency programs for eligible low-income customers. All programs carried out under this section must reduce energy consumption and costs for customers.
- (b) **Application.** This section applies to all electric utilities' service areas in the state, except service areas of municipally owned utilities or electric cooperatives that have not opted in to competition and the service area of a utility referred to in the Public Utility Regulatory Act (PURA) §39.102(c).
- (c) **Low-income energy efficiency plan schedule.** The Texas Department of Housing and Community Affairs (TDHCA) shall, for the remaining quarters of fiscal year 2003, file quarterly reports in accordance with subsection (d) of this section. No later than April 1, 2004, TDHCA shall file a final annual report in accordance with subsection (e) of this section.
- (d) **Quarterly energy efficiency report.** The quarterly energy efficiency report shall provide the information listed below:
- (1) The most current information available comparing the baseline and milestones achieved under the program, including the number of households served under each program.

- (2) A statement of funds expended by energy efficiency service providers and TDHCA program administration during the quarter.
 - (3) A statement of any funds that were committed but not spent during the quarter.
- (e) **Annual energy efficiency report.** The annual energy efficiency report shall provide the information listed below:
- (1) The most current information available comparing projected savings to reported savings, including the amount of kW and kWh savings achieved in each electric utility service area.
 - (2) The most current information available comparing the baseline and milestones achieved under the program.
 - (3) A statement of funds expended by the energy efficiency service providers and TDHCA program administration.
 - (4) A statement of any funds that were committed but not spent during the fiscal year, by program.
 - (5) A statement regarding the number of households served by each program.
 - (6) A summary of the previous fiscal year's operation and management monitoring and installation inspection findings.
- (f) **Legislative report.** The commission shall compile the information submitted by TDHCA in its quarterly and annual report and any other relevant information bi-annually. The report shall be submitted to the joint legislative oversight committee on electric restructuring.

This agency hereby certifies that the rules, as adopted, have 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 §25.453 relating to targeted energy efficiency programs is hereby adopted with no changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 19th DAY OF DECEMBER 2003.

PUBLIC UTILITY COMMISSION OF TEXAS

JULIE PARSLEY, COMMISSIONER

PAUL HUDSON, COMMISSIONER