

**PROJECT NO. 46388**

**RULEMAKING TO AMEND 16 TAC § PUBLIC UTILITY COMMISSION**  
**§25.181(f)(7)(E) RELATING TO THE §**  
**ANNUAL CPI ADJUSTMENT TO § OF TEXAS**  
**ENERGY EFFICIENCY COST §**  
**RECOVERY FACTOR COST CAPS §**

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §25.181  
AS APPROVED AT THE OCTOBER 28, 2016 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §25.181, relating to Energy Efficiency Goal. The proposed amendment will require that electric utilities' residential and commercial energy efficiency cost recovery factor (EECRF) cost caps be increased or decreased by a rate equal to the most recently available calendar year's percentage change in the South urban consumer price index (CPI), as determined by the Federal Bureau of Labor Statistics. The amendment replaces the current provision in the rule that only requires that the EECRF cost caps increase in response to an increase in the CPI. In addition, the proposal for publication would amend the benchmarks used for calculating the EECRF cost caps for future program years and delete obsolete language. Project Number 46388 is assigned to this proceeding.

Therese Harris, Senior Utility Analyst, Infrastructure and Reliability Division, has determined that for each year of the first five-year period the proposed section is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

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Therese Harris has determined that for each year of the first five years the proposed section is in effect, the public benefit anticipated as a result of enforcing the section will be that the residential and commercial EECRF cost caps that set the maximum a customer can be charged for an electric utility's energy efficiency incentive programs on a dollar per kilowatt-hour (kWh) basis will decrease when the annual percentage change in the South urban consumer price index as determined by the Federal Bureau of Labor Statistics is negative. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Therese Harris has also determined that for each year of the first five years the proposed section is in effect, there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, on January 6, 2017 at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The request for a public hearing must be received by January 2, 2017.

Initial comments on the proposed section may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by December 12, 2016.

Reply comments may be submitted by December 29, 2016. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 46388.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2016) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; PURA §36.204, which authorizes the commission to establish rates for an electric utility that allow timely recovery of the reasonable costs for conservation and load management, including additional incentives for conservation and load management; and PURA §39.905, which requires the commission to provide oversight of energy efficiency programs of electric utilities subject to that section and adopt rules and procedures to ensure that electric utilities subject to that section can achieve their energy efficiency goals, including rules providing for EECRFs and an incentive for electric utilities that meet the energy efficiency goals.

Cross Reference to Statutes: PURA §§14.002, 36.204, and 39.905.

**§25.181. Energy Efficiency Goal.**

(a)-(e) (No change.)

(f) **Cost recovery.** A utility shall establish an energy efficiency cost recovery factor (EECRF) that complies with this subsection to timely recover the reasonable costs of providing a portfolio of cost-effective energy efficiency programs pursuant to this section.

(1)-(6) (No change.)

(7) The total EECRF costs outlined in paragraph (1) of this subsection, excluding EM&V costs and municipal EECRF proceeding expenses shall not exceed the amounts prescribed in this paragraph unless a good cause exception filed pursuant to subsection (e)(2) of this section is granted.

(A) For residential customers for program years 2016 and 2017,  
\$0.001266~~year 2012, \$0.001~~ per kWh; and

(B) For residential customers for program year 2018, \$0.001263 per kWh  
increased or decreased by a rate equal to the 2016 calendar year's  
percentage change in the South urban consumer price index (CPI), as  
determined by the Federal Bureau of Labor Statistics~~2013, \$0.0012 per~~  
~~kWh;~~

(C) For commercial customers for program years 2016 and 2017~~year 2012,~~  
rates designed to recover revenues equal to \$0.000791~~\$0.0005~~ per kWh  
times the aggregate of all eligible commercial customers' kWh  
consumption; and

- (D) For commercial customers for program year ~~2018~~~~2013~~, rates designed to recover revenues equal to ~~\$0.000790~~~~\$0.00075~~ per kWh increased or decreased by a rate equal to the 2016 calendar year's percentage change in the South urban CPI, as determined by the Federal Bureau of Labor Statistics times the aggregate of all eligible commercial customers' kWh consumption.
- (E) For the ~~2019~~~~2014~~ program year and thereafter, the residential and commercial cost caps shall be calculated to be the prior period's cost caps increased or decreased by a rate equal to the most recently available calendar year's percentage change in the South urban ~~CPI~~~~consumer price index (CPI)~~, as determined by the Federal Bureau of Labor Statistics.

(8)-(14) (No change.)

(g)-(x) (No change.)

~~(y) — Effective date. The effective date of this section is January 1, 2013.~~

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 28<sup>th</sup> DAY OF OCTOBER 2016 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**