

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter H. ELECTRICAL PLANNING.

DIVISION 2. ENERGY EFFICIENCY AND CUSTOMER-OWNED RESOURCES.

§25.182. Energy Efficiency Grant Program.

- (a) **Purpose.** The purpose of this section is to provide implementation guidelines for the Energy Efficiency Grant Program mandated under the Health and Safety Code, Title 5, Subtitle C, Chapter 386, Subchapter E, Energy Efficiency Grant Program. Programs offered under the Energy Efficiency Grant Program shall utilize program templates that are consistent with §25.181 of this title (relating to the Energy Efficiency Goal). Programs shall include the retirement of materials and appliances that contribute to energy consumption during periods of peak demand with the goal of reducing energy consumption, peak loads, and associated emissions of air contaminants.
- (b) **Eligibility for grants.** Electric utilities, electric cooperatives, and municipally owned utilities are eligible to apply for grants under the Energy Efficiency Grant Program. Multiple eligible entities may jointly apply for a grant under one energy efficiency grant program application. Grantees shall administer programs consistent with §25.181 of this title.
- (c) **Definitions.** The following words and terms, when used in this section shall have the following meanings unless the context clearly indicates otherwise:
- (1) **Affected counties** — Bastrop, Bexar, Caldwell, Comal, Ellis, Gregg, Guadalupe, Harrison, Hays, Johnson, Kaufman, Nueces, Parker, Rockwall, Rusk, San Patricio, Smith, Travis, Upshur, Victoria, Williamson, and Wilson. An affected county may include a nonattainment area, at which point it will be considered a nonattainment area.
 - (2) **Demand side management (DSM)** — Activities that affect the magnitude or timing of customer electrical usage, or both.
 - (3) **Electric utility** — As defined in the Public Utility Regulatory Act (PURA) §31.002(6).
 - (4) **Energy efficiency** — Programs that are aimed at reducing the rate at which electric energy is used by equipment and/or processes. Reduction in the rate of energy used may be obtained by substituting technically more advanced equipment to produce the same level of end-use services with less electricity; adoption of technologies and processes that reduce heat or other energy losses; or reorganization of processes to make use of waste heat. Efficient use of energy by consumer-owned end-use devices implies that existing comfort levels, convenience, and productivity are maintained or improved at lower customer cost.
 - (5) **Energy efficiency service provider** — A person who installs energy efficiency measures or performs other energy efficiency services. An energy efficiency service provider may be a retail electric provider or a large commercial customer, if the person has executed a standard offer contract with the grantee.
 - (6) **Grantee** — the entity receiving energy efficiency grant program funds.
 - (7) **Nonattainment area** — An area so designated under the federal Clean Air Act §107(d) (42 U.S.C. §7407), as amended. A nonattainment area does not include affected counties.
 - (8) **Peak demand** — Electrical demand at the time of highest annual demand on the utility's system, measured in 15 minute intervals.
 - (9) **Peak demand reduction** — Peak demand reduction on the utility system during the utility system's peak period for the duration of at least one hour, calculated as the maximum average demand reduction over a period of one hour during the peak period.
 - (10) **Peak load** — Peak demand.
 - (11) **Peak period** — Period during which a utility's system experiences its maximum demand. For the purposes of this section, the peak period is May 1 through September 30, during the hours between 1:00 p.m. and 7:00 p.m., excluding federal holidays and weekends.
 - (12) **Retirement** — The disposal or recycling of all equipment and materials in such a manner that they will be permanently removed from the system with minimal environmental impact.

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter H. ELECTRICAL PLANNING.

DIVISION 2. ENERGY EFFICIENCY AND CUSTOMER-OWNED RESOURCES.

- (d) **Commission administration.** The commission shall administer the Energy Efficiency Grant Program, including the review of grant applications, allocation of funds to grantees and monitoring of grantees. The commission shall:
- (1) Develop an energy efficiency grant program application form. The grant application form shall include:
 - (A) Application guidelines;
 - (B) Information on available funds, including minimum and maximum funding levels available to individual applicants;
 - (C) Listing of applicable affected counties and counties designated as nonattainment areas; and
 - (D) Information on the evaluation criteria, including points awarded for each criterion.
 - (2) Evaluate and approve grant applications, consistent with subsection (e) of this section.
 - (3) Enter into a contract with the successful applicant.
 - (4) Reimburse participating grantees from the fund for costs incurred by the grantee in administering the energy efficiency grant program.
 - (5) Monitor grantee progress on an ongoing basis, including review of grantee reports provided under subsection (g)(8) of this section.
 - (6) Compile data provided in the annual energy efficiency report, pursuant to §25.183 of this title (relating to Reporting and Evaluation of Energy Efficiency Programs).
- (e) **Criteria for making grants.**
- (1) Grants shall be awarded on a competitive basis. Applicants will be evaluated on the minimum criteria established in subparagraphs (A)-(F) of this paragraph.
 - (A) The extent to which the proposal would reduce emissions of air pollutants in a nonattainment area.
 - (B) The extent to which the proposal would reduce emissions of air pollutants in an affected county.
 - (C) The amount of energy savings achieved during periods of peak demand.
 - (D) The extent to which the applicant has achieved verified peak demand reductions and verified energy savings under this or other similar energy efficiency programs and has complied with the requirements of the grant program established under this section.
 - (E) The extent to which the proposal is credible, internally consistent, and feasible and demonstrates the applicant's ability to administer the program.
 - (F) Any other criteria the commission deems necessary to evaluate grant proposals.
 - (2) Applicants who receive the most points under the evaluation criteria shall be awarded grants, subject to the following constraints:
 - (A) The commission reserves the right to set maximum or minimum grant amounts, or both.
 - (B) The commission reserves the right to negotiate final program details and grant awards with a successful applicant.
- (f) **Use of approved program templates.** All programs funded through the energy efficiency grant program shall be program templates developed pursuant to §25.181 of this title.
- (1) Program templates adopted under this program shall include the retirement of materials and appliances that contribute to energy consumption during periods of peak demand to ensure the reduction of energy, peak demand, and associated emissions of air contaminants.
 - (2) Cost effectiveness and avoided cost criteria shall be consistent with §25.181(e) of this title.
 - (3) Incentive levels shall be consistent with program templates and in accordance with §25.181(h)(2)(F) of this title.

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter H. ELECTRICAL PLANNING.

DIVISION 2. ENERGY EFFICIENCY AND CUSTOMER-OWNED RESOURCES.

§25.182(f) continued

- (4) Inspection, measurement and verification requirements shall be consistent with program templates and in accordance with §25.181(l) of this title.
 - (5) Projects or measures under this program are not eligible for incentive payments or compensation if:
 - (A) A project would achieve demand reduction by eliminating an existing function, shutting down a facility, or operation, or would result in building vacancies, or the re-location of existing operations to locations outside of the facility or area served by the participating utility.
 - (B) A measure would be installed even in the absence of the energy efficiency service provider's proposed energy efficiency project. For example, a project to install measures that have wide market penetration would not be eligible.
 - (C) A project results in negative environmental or health effects, including effects that result from improper disposal of equipment and materials.
 - (D) The project involves the installation of self-generation or cogeneration equipment, except for renewable demand side management technologies.
- (g) **Grantee administration:** The cost of administration may not exceed 10% of the total program budget before January 1, 2003, and may not exceed 5.0% of the total program budget thereafter. The commission reserves the right to lower the allowable cost of administration in the application guidelines.
- (1) Administrative costs include costs necessary for grantee conducted inspections and the costs necessary to meet the following requirements:
 - (A) Conduct informational activities designed to explain the program to energy efficiency service providers and vendors.
 - (B) Review and select proposals for energy efficiency projects in accordance with the program template guidelines and applicable rules of the standard offer programs under §25.181(j) of this title, and market transformation programs under §25.181(k) of this title.
 - (C) Inspect projects to verify that measures were installed and are capable of performing their intended function, as required in §25.181(l) of this title, before final payment is made. Such inspections shall comply with PURA §39.157 and §25.272 of this title (relating to Code of Conduct for Electric Utilities and Their Affiliates) or, to the extent applicable to a grantee, §25.275 of this title (relating to the Code of Conduct for Municipally Owned Utilities and Electric Cooperatives Engaged in Competitive Activities).
 - (D) Review and approve energy efficiency service providers' savings monitoring reports.
 - (2) A grantee administering a grant under this program shall not be involved in directly providing customers any energy efficiency services, including any technical assistance for the selection of energy efficiency services or technologies, unless the customer is a large commercial customer and the activities are limited to the outreach activities outlined in paragraph (1)(A) of this subsection, or unless a petition for waiver has been granted by the commission pursuant to §25.343 of this title (relating to Competitive Energy Services), to the extent that section is applicable to a grantee.
 - (3) Only projects installed within the grantee's service area are eligible for compensation under this program.
 - (4) An electric utility may not count the energy and demand savings achieved under the energy efficiency grant program towards satisfying the requirements of PURA §39.905.
 - (5) Incentives paid for energy and demand savings under the energy efficiency grant program may not supplement or increase incentives made for the same energy and demand savings under programs pursuant to PURA §39.905.

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter H. ELECTRICAL PLANNING.

DIVISION 2. ENERGY EFFICIENCY AND CUSTOMER-OWNED RESOURCES.

§25.182(g) continued

- (6) An electric utility, electric cooperative or municipally owned utility may not count air contaminant emissions reductions achieved under the energy efficiency grant program towards satisfying an obligation to reduce air contaminant emissions under state or federal law or a state or federal regulatory program.
 - (7) The grantee shall compensate energy efficiency service providers for energy efficiency projects in accordance with the applicable rules of the standard offer programs under §25.181(j) of this title, and market transformation programs under §25.181(k) of this title, and the requirements of this section.
 - (8) The grantee shall provide reports consistent with contract requirements and §25.183 of this title.
- (h) **Effective date:** This section shall be in effect for any energy efficiency programs pursuant to this section with a start date of January 1, 2003 and thereafter.