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October 25, 2023

Rules Coordinator  
Railroad Commission of Texas  
Office of General Counsel  
P.O. Drawer 12967  
Austin, TX 78711-2967  
Via email to [rulescoordinator@rrc.texas.gov](mailto:rulescoordinator@rrc.texas.gov).

**RE: Proposed New 16 TAC §7.480, relating to Energy Conservation Programs**

Public Citizen's Texas office appreciates the opportunity to provide comments on the proposed new 16 TAC §7.480, relating to Energy Conservation Programs (ECPs).

We have engaged with one of the few existing energy conservation programs at a gas utility in Texas – run by Texas Gas in the Austin area – for many years and have learned from that experience. We offer the following recommendations to ensure that ECPs authorized through this new regulation are in the public interest.

1. **Require demonstration of cost-effectiveness.** Local distribution companies (LDCs) should be required to demonstrate cost-effectiveness, on an annual basis, of each measure included within an ECP that is funded in full or in part by ratepayers. No measure or ECP with a Total Resource Cost (TRC) test score below one (1) should be approved by the Railroad Commission other than low-income weatherization programs. This is a common standard applied to energy efficiency programs at utilities in Texas and across the country. LDCs should not be allowed to bundle measures or ECPs to hide measures that aren't cost-effective. Ratepayers deserve to have their money spent only on cost-effective measures. Because weatherization for low-income households combines the dual goals of energy conservation and equity, these programs are a reasonable exception to this rule. Weatherization programs should include insulation, weather stripping, plugging holes in the building envelope, duct sealing and similar measures. They should not include appliances or new gas plumbing.

We have observed that Texas Gas has been allowed to use averaging of the cost-effectiveness of a portfolio to obscure some measures and programs that are not cost-effective. This allows wasteful spending of ratepayer funds and should be prohibited. It appears that instead of focusing solely on energy conservation within its programs, the utility is attempting to boost its market share by spending lavishly to incentivize customers to choose gas appliances instead of electric. There is a long history of utilities subsidizing or even outright purchasing appliances for customers as a means of increasing sales of their fuel – electricity or gas. This is not an acceptable use of ratepayer funds.

2. **Require independent third-party verification.** Data and calculations provided by LDCs should be verified by a qualified independent third party. The Railroad Commission should provide this service and include the cost in fees charged to the LDCs. As mentioned above, LDCs may have financial incentives to offer programs that aren't cost-effective. We have observed the use of unrealistic assumptions that lead to favorable TRC test scores for programs and measures that are not cost effective. A qualified independent third-party review of data, assumptions and calculations can help ensure prudent use of ratepayer funds.
3. **Apply extra scrutiny to ECPs for new construction.** ECPs for new construction – especially those that incentivize the purchase of appliances – deserve extra scrutiny because the default equipment isn't known. In today's market, it should not be assumed that gas appliances are the default. With the onset of generous incentives through the Inflation Reduction Act for heat pumps for space conditioning, water heating and clothes drying, this type of equipment is likely to become the default within the next couple of years. Thus, deemed savings should be relative to heat pumps.

Financial incentives for appliances for new construction are especially likely to be used as a means of growing market share, as opposed to conserving energy. By nature, new construction represents potential new customers and additional gas use. In addition to the TRC test, the Railroad Commission should conduct a Societal Cost Test (SCT) that includes environmental costs and benefits. The SCT should utilize the current and projected carbon intensity of the ERCOT grid, as well as the most current data on methane leakage throughout the supply chain.

4. **Include public engagement in ECP applications and renewals.** Members of the public should be invited to participate in the review of all ECP applications and renewals. The public engagement process should include opportunities to provide written and oral comments. All effected customers should be notified of these opportunities by mail and by email if that's how they receive their bills. Notification should also be posted on the Railroad Commission website. Customers and other stakeholders can be a first line of defense against wasteful or otherwise inappropriate programs.

Thank you for your consideration of these recommendations as you work on this rulemaking.

Sincerely,



Kaiba White  
Public Citizen's Texas office  
kwhite@citizen.org