

**PROPOSED NEW 16 TAC § 7.480,
RELATING TO ENERGY
CONSERVATION PROGRAMS, AND
PROPOSED AMENDMENTS TO
16 TAC § 7.460**

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**RAILROAD COMMISSION
OF TEXAS**

**OFFICE OF PUBLIC UTILITY COUNSEL’S INITIAL COMMENTS ON
THE RAILROAD COMMISSION OF TEXAS’S PROPOSED NEW 16 TAC § 7.480,
RELATING TO ENERGY CONSERVATION PROGRAMS, AND
PROPOSED AMENDMENTS TO 16 TAC § 7.460**

The Office of Public Utility Counsel (“OPUC”), representing the interests of residential and small commercial consumers in Texas, respectfully submits these initial comments to the Proposal for Publication (“PFP”) approved by the Railroad Commission of Texas (“RRC” or “Commission”) on September 19, 2023.¹ The RRC proposed amendments to 16 Texas Administrative Code (“TAC”) § 7.460, relating to Suspension of Gas Utility Service Disconnection During an Extreme Weather Emergency, and new 16 TAC § 7.480, relating to Energy Conservation Programs. The proposed rules were published in the October 6, 2023, Texas Register, and the RRC requests public comments by October 25, 2023.² Therefore, OPUC’s comments are timely filed.

I. BACKGROUND

RRC proposed amendments to § 7.460 pursuant to Texas Utilities Code §105.023, which requires the Commission to adopt a classification table to guide courts in issuing civil penalties against gas utilities who disconnect service to residential customers during an extreme weather emergency. Proposed new § 7.480 pursuant to House Bill (“HB”) 2263, 88th Legislature, Regular Session, which added new Subchapter J, Natural Gas Energy Conservation Programs, into Chapter 104, Texas Utilities Code. With utility costs becoming more volatile in recent years, these rules may help ease some of the financial and reliability concerns of residential and small commercial utility customers that use gas by:

¹ *Proposed New 16 TAC §7.480, relating to Energy Conservation Programs, and Proposed Amendments to 16 TAC §7.460*, Proposal Approved at Conference for Submission to the Texas Register (September 19, 2023).

² 48 Tex. Reg. 5796 (October 6, 2023).

- Incentivizing local distribution companies (“LDCs”) to implement energy conservation plans; and
- Creating a civil penalty classification system for gas utilities that disconnect customers during an extreme weather emergency.

II. PROPOSED AMENDMENTS TO 16 TAC § 7.460

OPUC supports the RRC’s proposed amendments to § 7.460 and appreciates the Commission’s efforts to ensure the safety of the public during extreme weather emergencies. The rule already provides some protections, such as through notice and payment plan requirements, and the proposed amendments add further protections for residential gas customers. Specifically, OPUC supports the Commission’s civil penalty classification system for gas utilities that disconnect customers including delinquent customers during an extreme weather emergency. OPUC also appreciates that the rule stipulates that the Commission or the Office of the Attorney General may file suit to recover costs on behalf of residential customers when a utility violates 16 TAC § 7.460(b)(1). This provision provides an added layer of protection for residential customers, ensuring they will continue to have gas service when the temperature does not exceed 32 degrees Fahrenheit over the course of two days. The proposed rule amendments provide overall safety and assurance for the public during extreme weather events.

III. PROPOSED NEW 16 TAC § 7.480

OPUC is generally supportive of RRC’s efforts to incentivize energy conservation programs (“ECPs”). Often, ECPs improve power system efficiency by encouraging the use of energy-efficient products, such as light emission diode bulbs, smart meters, smart thermostats, and insulated home products. ECPs encourage homeowners to simply utilize less energy in order to realize bill savings, and also improve operational security for the state. By participating in ECPs, consumers help utility systems to conserve energy during periods of peak usage. By lowering demand during peak times, consumers may not only obtain bill credits but also help utilities better manage their resources, improving delivery and making our grid more reliable and efficient for everyone.

OPUC is supportive of new 16 TAC § 7.480, particularly subsection (c), which sets the standards for ECP proposals and reimbursement procedures. That subsection requires the Commission to review the ECP portfolio for reasonableness and prudence and provides for a mechanism to refund any costs recovered that are found to be imprudent or unreasonable. New 16 TAC § 7.480(c) will protect ratepayers from potentially burdensome costs that may arise from imprudent and unreasonable ECP portfolios and preclude recovery of overly expansive costs from gas customers.

OPUC also supports of the cost recovery mechanism under new 16 TAC § 7.480(g), which is limited to incremental costs not included in cost of service rates of LDCs. Costs associated with the replacement of materials may already be flowing downstream to customers before an ECP portfolio is filed at the Commission. The proposed language of 16 TAC § 7.480(g) disallows recovery of costs included in cost of service rates, which will prevent double recovery of ratepayer by an LDC. Further, OPUC supports the formula under 16 TAC § 7.480(g)(1) that takes into account customer class, which will balance costs associated with each class and prevent residential consumers from bearing an oversized cost burden for ECP portfolios. OPUC recommends that, if the RRC uses the residential class as a metric to assess ECP, it should also develop a formula to calculate the costs of the ECP on the residential class to develop a reasonable budget that the Commission may use to approve a utility's costs.

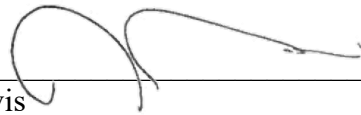
V. CONCLUSION

OPUC appreciates the opportunity to provide these initial comments to the Commission.

Date: October 25, 2023

Respectfully submitted,

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