SIERRA CLUB
LONE STAR CHAPTER

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To: House Committee on State Affairs
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A Year out From Uri and Grid Failure: Leadership has still (largely) ignored the demand side and customer solutions

But it is not too late!

The events surrounding Winter Storm Uri revealed how gas, electricity and water are interrelated, and there is the need to weatherize and winterize all three systems and increase their resiliency. While imperfect – especially on the gas supply side -- SB 3 and other bills did help shore up these aspects and focused on supply-side issues. We thank many members of this committee for raising the issues of the inadequate initial rule on critical infrastructure by the RRC, and it was improved, though we are awaiting actual weatherization rules this year.

Despite efforts by many organizations, legislators and others, political leadership failed to recognize the other issue revealed in Winter Storm Uri: electric (and gas) customers need solutions focused on the demand-side of the equation. Energy efficiency, demand response and other distributed energy resources are solutions that could improve resiliency, lower costs and help make our system more reliable.

Electric demand records were set (or would have been set if not for the grid failure) in February of 2021, and earlier this month, summer electric demand records were set. Again, a needed solution is reducing that demand so our system is more reliable.

In December of 2021, the Commissioners of the PUCT adopted an initial blueprint which included many important steps in Phase 1, and a Phase 2 process for additional analysis. There are several important steps that have been taken that the Sierra Club supports including:

- Increase of Emergency Response Services (largely demand response) budget from $50 million to $75 to $100 million;
- Opening up of a project on the use of distributed energy resources in our market
- Lowering of the wholesale market price from $9,000 to $5,000 per mWh.
- Continued development of new ERCOT ancillary services such as fast frequency response, the use of loads in non-spin and ECRS.

While the PUC in their blueprint has taken some small steps forward as mentioned, they have failed to act on others, but do have the power to do so. The Sierra Club remains concerned that the types of solutions being developed by the PUC and ERCOT – particularly those in Phase 2 - will create huge costs to consumers large and small, and will not guarantee the reliable and resilient system required for Texas's health, and well-being. We have serious concerns with the process thus far, and want to be sure that any Phase 2 changes must undergo a robust cost-benefit analysis with opportunities for stakeholder and public input.

A major oversight: The Failure to Address Record-Breaking Demand through Energy Efficiency and Demand Response

In its Blueprint, the four commissioners approved a plan that in Phase 1 stated they would improve the efficiency of the load-management and other programs run by the state's eight private Transmission and Distribution Utilities. However, thus far, they have failed to open up a rulemaking to do this, and in the meantime these same utilities have already submitted their plans for 2023, and their plans on how to charge ratepayers for meeting those plans.

In the wake of the issues that arose during Winter Storm Uri, in fact, now is the time to ramp up programs that will help us create a more resilient grid and directly help those impacted during winter and summer peaks. While the PUCT has taken some small steps to recognize the importance of looking at the demand side such as increasing Emergency Response Programs, they have yet to address the energy efficiency programs run by the utilities themselves. Now, Oncor and other utilities are proposing a fee charged to residential and commercial customers to pay for the programs. The PUCT can and should require the utilities to meet higher program goals and prioritize programs that help make the grid more resilient.

Their plans are problematic. Utilities are essentially letting the public know they are totally fine with doing about the same in 2023 as they are doing in 2022 and as they did in 2021. The name of the game here is embracing the status quo, year after year, even though natural gas prices are skyrocketing, our grid failed Texans, and we continue to face grid unpredictability as our state rapidly develops amid extreme temperatures. Energy efficiency demand reductions and savings would remain the same if the PUCT approves these plans.

Worse, using existing rules, these same utilities are proposing to spend roughly a third of their budgets on performance bonuses for meeting the 2021 goals. As an example, the largest utility, Oncor, is proposing to spent about $83 million next year as part of its energy efficiency filing. While $83 million may seem like a substantial amount to help consumers reduce their bills and use less energy, the Sierra Club would point out that that total includes more than $28 million in proposed performance bonuses, which are to pay a bonus for merely meeting the lowest goals in the country. While legal, it means that over one-third of the proposed budget being paid for by residential and commercial consumers would simply go to pay for a bonus for Oncor meeting and exceeding very modest demand reduction goals. Clearly these performance bonuses are not sustainable and provide no direct benefit to ratepayers.

Table 1. Components of ONCOR's EECRF 2023 Filing

Category	Amount	Percent of Total
Energy Efficiency Incentives and Program Costs	$51,665,337	62.20%
Performance Bonus	$28,029,733	33.74%
Evaluation, Measurement and Verification	$740,492	0.89%
Under-recovery of 2021 Program Costs	$2,603,394	3.31%
2021 Rate-Case Expenses	$18,953	0.02%
Total	$83,058,209	100%

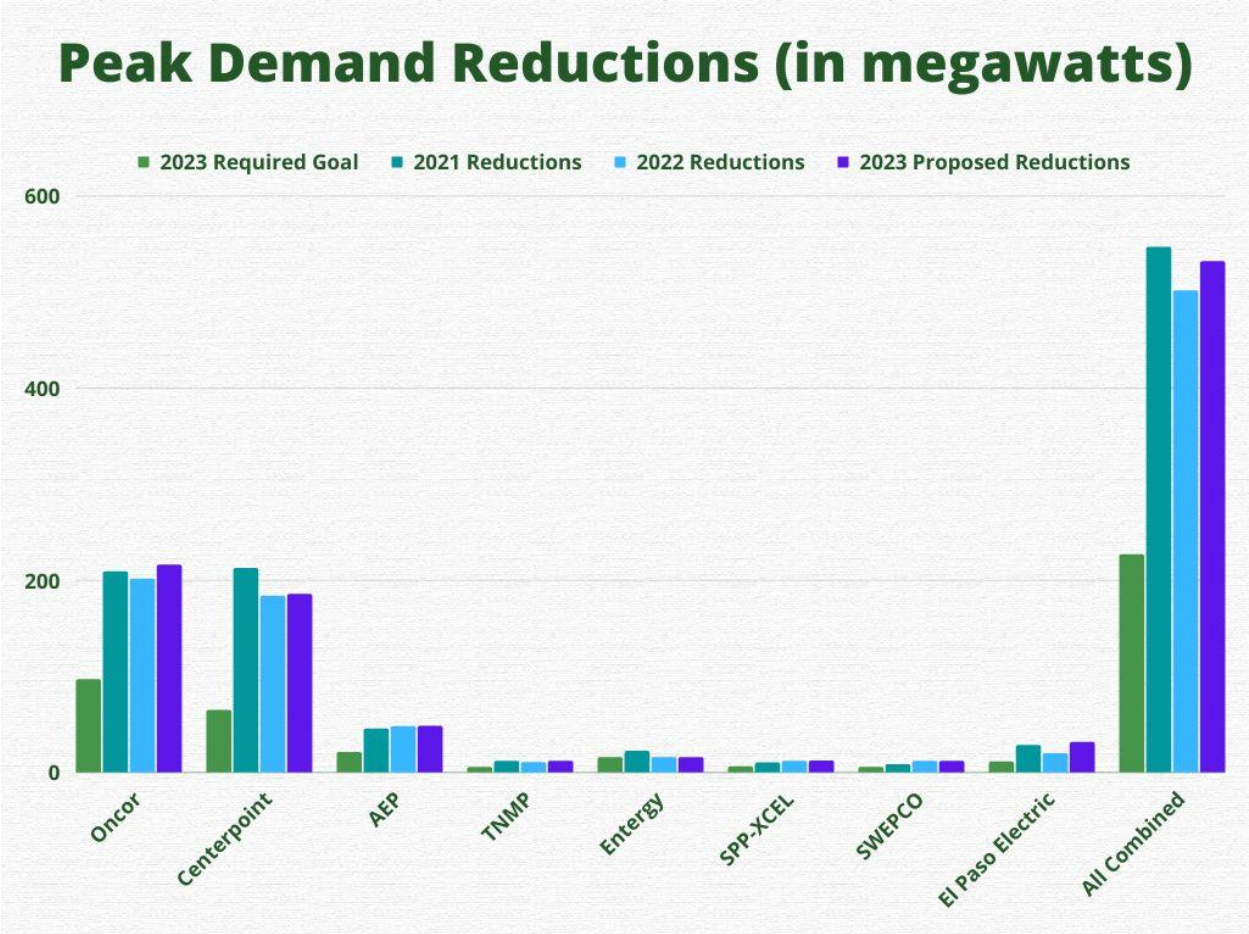
Part of the problem is how they are determined. As an example, in this case, ONCOR shows that it met its energy savings goal, and exceeded its demand reduction goal by well more than 20%, meaning it qualifies for a 10% bonus. However, that bonus is not on top of the budget but is actually a percentage of the "avoided costs" achieved through the demand and energy savings reduction, which Oncor using PUCT rules, has calculated at $280 million. Thus, ONCOR is able to claim up to a maximum of 10% of this total, as long as they exceed the goal by 20% and are under the cost cap.

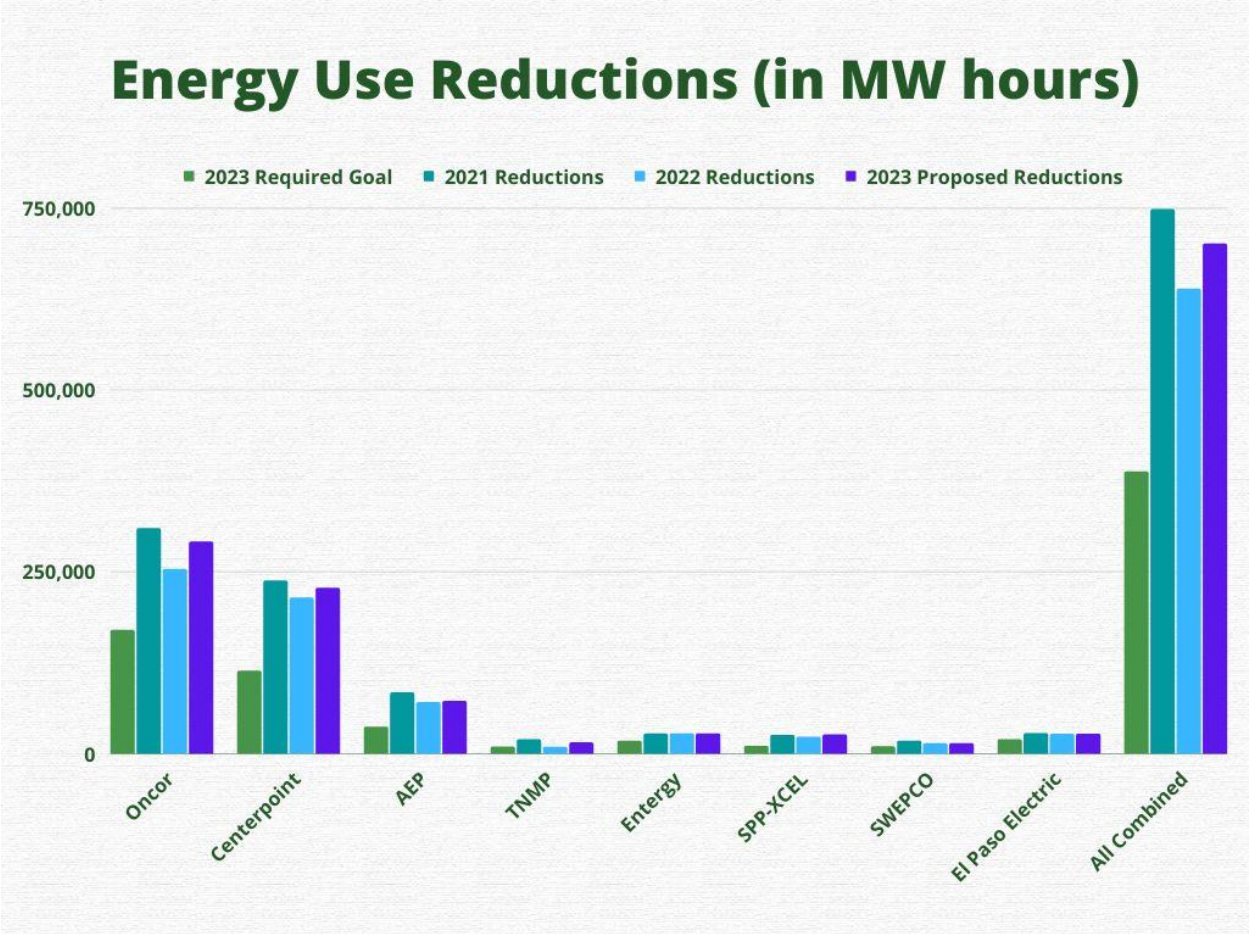
ONCOR is not alone. CenterPoint Energy is proposing to spend some $23 million on performance bonus - over a third of its budget - and Entergy and SPS are also proposing to spend almost a third of their budgets on performance bonuses.

How Much Would the Utilities Reduce Demand Overall through their Proposed Plans?

Overall, the eight utilities are proposing to reduce peak demand in 2023 by 531 megawatts. While this is about two-and-a-half times the required goal of 227 MWs, it is lower than what they achieved in 2021 (547 MWs) and just barely above what they expect to achieve this year (501 MWs). The utilities expect to reduce overall energy sales by 701,043 MW hours, about double the required reduction of 387,952 MWhs, but down slightly from what they achieved in 2021 (748,135 MWhs) and just slightly above the 2022 expected total (638,887 MWhs).

But wait, the utilities are essentially doubling their reductions above what's required — ain't that worthy of praise? Well, the Legislature set these goals more than 10 years ago and has not tweaked them since 2011. And, utilities can earn a performance bonus that essentially pays them ratepayer money for exceeding these outdated and underwhelming goals. Utilities are willing to do the bare minimum — design programs to exceed required goals and earn a healthy bonus — but they are unwilling to propose meaningful reductions. And paving the way is a PUCT that has yet to prioritize these programs, even after the winter storm.

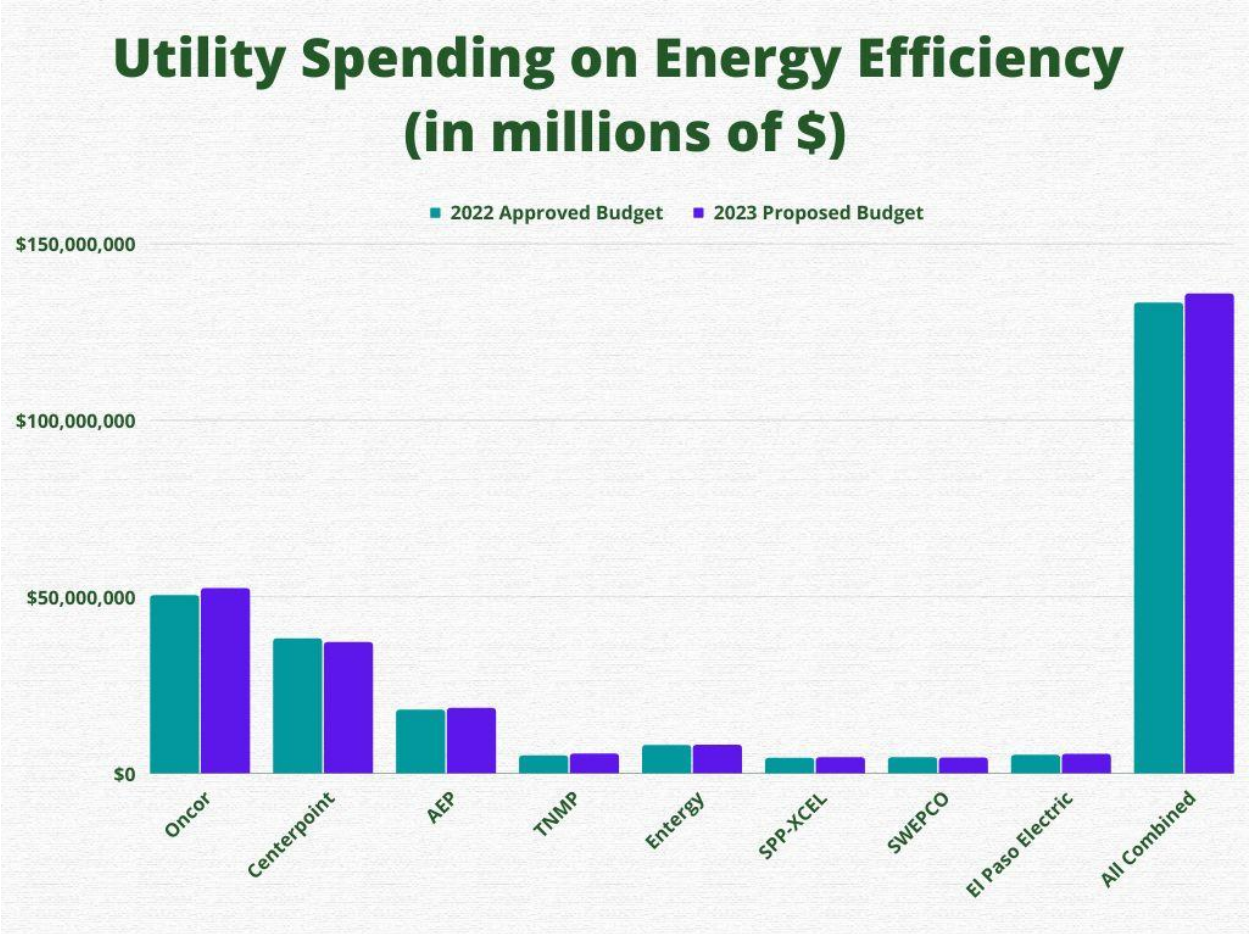

Peak Demand Reductions (in megawatts)
2023 Required Goal
2021 Reductions
2022 Reductions
2023 Proposed Reductions
600
400
200
0
Oncor
Centerpoint
AEP
TNMP
Entergy
SPP-XCEL
SWEPCO
El Paso Electric
All Combined



How much money are utilities spending?

Just like their lackluster reduction ambitions, the utilities are proposing spending nearly the same on energy efficiency programs: roughly $135.8 million next year vs. $133 million in 2022. This does not include the expensive performance bonuses, which are about a third of total costs. And the cost impact on the average residential household is very similar in 2023 as it was in 2022, between $0.98 and $1.74 per month depending on the utility.

While the PUCT should absolutely ensure that costs on residential and commercial consumers are kept reasonable, there is room to grow the programs especially considering that paying a little for energy efficiency saves ratepayers money. And, seven of the eight utilities are still below the “cost caps” imposed by the PUCT. Austin Energy residential customers, for example, spend approximately $2.40 per month to support energy efficiency and local solar programs, and CPS Energy recently adopted a budget of approximately $3.50 per month over the next five years on the average bill to support energy efficiency programs.



Note: The Chart Above Only Includes Administrative and Incentive Spending, and Does not Include the Proposed Performance Bonus, which are an additional $60 million.

To put this in perspective, average electricity prices are already up some 20 percent this year compared to last year, with the high cost of gas and the extra "insurance" that the Electric Reliability Council of Texas (ERCOT) is purchasing to make the system more reliable. These rising costs could be tampered with a small investment increase in robust energy efficiency programs.

Just the Facts MA'Am: Electric demand setting records.

- State regulators' official forecast, in megawatts, for "extreme" peak winter electricity demand in Texas for winter 2020/2021: 67,208
- Actual peak demand reached on Feb. 16, 2021: 76,819

Summer Peak Demand Record, ERCOT: **75,083 megawatts** 5:20 p.m. Sunday June 19th; Previous Summer Peak Demand Record: 74,800, August 2019

- Percentage of load that is residential and small commercial during winter and summer peak events: 65%
- Percentage of Texas homes heated by electricity in 1970: 8
- In 2018: 61
- Percentage of Texas residences with inadequate insulation: 50
- First state to establish an energy efficiency statewide goal: Texas
- Last time Texas established updated energy efficiency goals: 2011 (SB
- Number of states that have set an energy efficiency goal: 29
- Rank of Texas in states that have set an energy efficiency goal in terms of savings achieved: 29
- Current goals are set at 0.4% of either winter or summer peak, with a modest corresponding energy savings goal
- Current cost of the programs: 2.3 cents per kilowatt reduced, and about 1 cent per kilowatt hour saved over the life of the measures
- Last time Texas updated its base energy codes for new construction: 2015 (with implementation in 2016)

Recommendations:

- Energy Efficiency: raise the savings goals through PUC rulemaking, and reduce the performance bonus, and if not, through legislation and focus the goal on energy savings, flexible demand reduction during winter and summer peaks and customer needs
- Create a state-backed revolving loan program at SECO for residential and small commercial customers to improve their homes, apartments and buildings, potentially using federal IIJA money;
- Demand Response: Bring demand response (shifting energy use during peak) into energy market and establish a load obligation goal on demand response that is tradeable
- Expand the use of demand response in our ancillary reliability services
- Customer-sited and distributed energy: Enable third-parties, municipal utilities, electric cooperatives and retail electric providers to both receive nodal pricing for distributed energy resources, and enable aggregation so that solar, storage, demand response and

other resources on the distributed grid can fully compete in the energy and ancillary markets. We need more than just settlement-only distributed generation.

- Assure that energy produced from customer-sited and distributed generation is paid the fair market price for produced energy.
- Building codes – Raise the codes statewide and give counties more express authority to adopt, enforce and inspect buildings
- For new buildings, adopt the latest building code, including the 2021 energy codes. While SECO has opened up a public comment period right now on potential adoption of the codes, it is unclear whether they will ultimately take action because of potential conflicts with state statute. The legislature must fix this loophole.
- According to the PNNL labs, adopting the new codes would lead to a five percent reduction in energy use in residential and a 10 percent reduction in energy use in commercial construction compared to the last version of the codes.

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Important approved legislation that has helped (or would have helped) on codes, demand response, distributed generation, and energy efficiency

2011 established the current energy efficiency goals

SB 1125 Senate Author: Carona (R)
House Sponsor: Anchia (D)

Caption:
Relating to energy efficiency goals and programs and the participation of loads in certain energy markets.

2015 Building code bills adopted the 2015 codes and required SECO to review future codes

2015 - HB 1736

House Author: Villalba, Jason (R)
Senate Sponsor: Fraser, Troy (R)

Caption:
Relating to building energy efficiency performance standards.

2021 Code Legislation approved

Raised the base building code for the state to 2012 within cities; and provided flexibility for builders to use an alternative compliance path for future energy codes

HB 738	Paul, Dennis(R) Nichols, Robert(R)	Relating to the residential building codes of municipalities.
HB 3215	Geren, Charlie(R) Hughes, Bryan(R)	Relating to energy efficiency building standards.

Bills on building codes that would have helped make future grid failures less likely

Bill Number	Author	Caption
HB 1034	Goodwin	Relating to the authority of a county to adopt a fire or wildland-urban interface code.
HB 4496	Hinojosa, Gina	Relating to municipal and county building codes.
SB 1724	Eckhardt, Sarah	Relating to building codes applicable in the unincorporated areas of a county.

Allowing Distributed Energy Resources to Compete in ERCOT (Bills Filed, did Not Pass)

SB 1479	Johnson, Nathan(D)	Relating to the participation of distributed energy resources in the ERCOT market.

Expanding Energy Efficiency Programs in Texas (Bills Filed, did Not Pass)

Bill Number	Author	Caption
HB 2359	Reynolds, Ron	Related to Energy Efficiency Goals for Electric Utilities
HB 4556	Anchia, Rafael	Related to Energy Efficiency Goals for Electric Utilities
SB 243	Eckhardt, Sarah	Related to Energy Efficiency

		Goals for Electric Utilities
HB 1533	Reynolds, Ron	Relation to the creation of an energy efficiency loan guarantee program under the Texas emissions reduction plan

Expanding Demand Response Programs in Texas (Bills Filed, did Not Pass)

Bill Number	**Author**	**Caption**
HB 3362	Reynolds, Ron	Related to the provision of electricity service in this state
SB 2052	Menendez, Jose	Related to the provision of electricity service in this state