



# SIERRA CLUB

## LONE STAR CHAPTER

To: The Honorable Craig Goldman, Chair  
Members, House Committee on Energy Resources  
Re: HB 2263 (Darby), Relating to the authority of a natural gas local distribution company to offer energy conservation programs.  
From: Cyrus Reed, Conservation Director, [cyrus.reed@sierraclub.org](mailto:cyrus.reed@sierraclub.org), 512-888-9411

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The Lone Star Chapter of the Sierra Club is supportive of HB 2263 by Darby, as well as the committee substitute, though we would support a few amendments to strengthen the bill.

First, we support the idea that distribution gas companies should have and offer programs to save customers money by using gas more efficiently. In Texas, electric utility companies like Oncor, Centerpoint Energy, AEP and others are required to offer energy efficiency and load management programs, and these programs are evaluated annually by the PUCT and found to be cost-effective and save customers money. While we have long argued those programs should be expanded and higher goals enacted, that does not diminish their success.

Unlike many states, however, Texas has no statewide requirement for gas companies to offer gas conservation programs, and the only programs offered are generally where municipalities have required them as part of the gas company's monopoly agreement. It makes sense for gas companies to be required to offer such programs. Given what happened during winter storm uri, having distribution companies invest in simple efficiency measures like insulation, or more efficient gas dryers, water heaters or even improved windows and weatherization would lower both gas bills and electric bills, and allow gas to be used for other purposes (like power plants).

We have two major concerns or improvements. First the bill states in 104.402 (b) that "The railroad commission has exclusive original jurisdiction over energy conservation programs implemented by local distribution companies." While we understand that the intent of the bill is precisely to provide the RRC with this authority some cities already have existing agreements and oversight over gas conservation programs as part of the franchise agreements. We would suggest providing a provision such as "The railroad commission has exclusive primary original jurisdiction over energy conservation programs implemented by local distribution companies. Where a municipality currently has a requirement for a gas distribution company to run a gas conservation programs, the municipality may maintain this requirement up until the time the RRC approves a new program. The RRC will work with the municipality to assure that future

programs save at least as much gas as the current program levels do, and that current rates do not change except to the extent that the programs become larger.

Our second concern is that the bill does not subject the proposed rates or recovery of costs (and lost revenue) to a public or contested process, meaning that customers of the gas company will have little recourse to shape the programs or rates that the Texas Railroad Commission would impose upon ratepayers. Instead, the decision will be made exclusively by the company and the RRC, meaning the public and ratepayers are cut out of the program.

We think the bill would be improved by subjecting the conservation programs to a normal ratemaking procedure. Therefore we would make Section (g) an actual requirement by stating Section (g) in the bill ((g)A proceeding filed under this section is not a ratemaking proceeding for the purposes of Section 103.022.

Regardless, we would support some provisions for public input, requiring that gas companies and the RRC hold public meetings, and that a Evaluation, Measurement and Validation (EMV) contract be required to assess the cost effectiveness of any program. Gas companies should also be required to put information about their programs, and how to access it on their websites.

Some suggested language can be found below.

#### Sec.104.403.ENERGY CONSERVATION PROGRAM COST RECOVERY.

(a) A local distribution company may recover costs prudently incurred to implement one or more energy conservation programs, including costs incurred to design,market,implement,administer, and deliver an energy conservation program and an amount equal to the reduction in the local distribution company's marginal revenues due to the lower sales or demand resulting from the energy conservation program,if:

(1) The company applies to the railroad commission at least once every **two** three years under this subchapter for review and approval of the company's energy conservation programs;

**(2) The application process includes notice and an opportunity for public input and for a public meeting on the programs;**

(3) The railroad commission approves cost recovery for the company 's energy conservation programs.

(b) The railroad commission by rule shall require a local distribution company that implements an energy conservation program under this subchapter to submit to the railroad commission an annual report. **The report submitted under (b) must be published on the website of the Texas Railroad Commission as well as on the company's website, and provide information on:**

(1) The performance of the company's energy conservation programs for the preceding year; and

(2) The company's planned energy conservation programs for the upcoming year.

(c) An application submitted under Subsection (a) must include:

(1) A summary of and objectives for the local distribution company's energy conservation programs;

(2) A description of each program;

(3) A proposed budget for each program; and

(4) The projected consumption reduction or cost savings for each program; and

**(5) An opportunity for public input on the programs, and a response to any public input by the company.**

(d) The railroad commission by rule may:

(1) determine a cost recovery mechanism for timely recovery of costs described by Subsection (a); and

(2) ensure that costs described by Subsection (a) are allocated to the customer classes eligible for participation in energy conservation programs; and

**(3) Require a separate EMV (Evaluation, Measurement and Verification) process through a third-party to assure that the costs are cost-effective and achieving the results presented in the company's annual report.**