



Control Number: 50803



Item Number: 1

Addendum StartPage: 0

DOCKET NO. **50803**

APPLICATION OF ENTERGY TEXAS,  
INC. TO ADJUST ITS ENERGY  
EFFICIENCY COST RECOVERY  
FACTOR

§  
§  
§  
§

PUBLIC UTILITY COMMISSION  
OF TEXAS

2020 MAY -1 AM 10:49  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**APPLICATION OF ENTERGY TEXAS, INC. TO ADJUST ITS  
ENERGY EFFICIENCY COST RECOVERY FACTOR**

Entergy Texas, Inc. ("ETI" or "the Company") files this Application to Adjust its Energy Efficiency Cost Recovery Factor ("EECRF") under Public Utility Regulatory Act ("PURA") § 39.905 and 16 Texas Administrative Code ("TAC") § 25.182. In support thereof, ETI shows the following:

**I. BUSINESS ADDRESS AND AUTHORIZED REPRESENTATIVES**

The business address of the Company is:

Entergy Texas, Inc.  
350 Pine Street  
Beaumont, Jefferson County, Texas 77701

The business mailing address of the Company is:

Entergy Texas, Inc.  
P.O. Box 2951  
Beaumont, Texas 77704

The business telephone number of the Company is (409) 838-6631.

The authorized representatives for the Company in this proceeding are:

Deanna Rodriguez  
Vice President, Regulatory & Public Affairs, Texas  
Entergy Texas, Inc.  
919 Congress Avenue, Suite 740  
Austin, Texas 78701  
(512) 487-3999 telephone  
(512) 487-3998 facsimile

Wajiha Rizvi  
Senior Counsel  
Entergy Services, LLC  
919 Congress Avenue, Suite 701  
Austin, Texas 78701  
(512) 487-3962 telephone  
(512) 487-3958 facsimile

Inquiries and pleadings concerning this Application should be directed to the following representatives:

Wajiha Rizvi  
Senior Counsel  
Miguel Suazo  
Senior Counsel  
Entergy Services, LLC  
919 Congress Avenue, Suite 701  
Austin, Texas 78701  
(512) 487-3962 telephone  
(512) 487-3958 facsimile

## **II. JURISDICTION**

The Public Utility Commission of Texas (“Commission”) has jurisdiction over ETI and the subject matter of this Application under PURA § 39.905 as implemented in 16 TAC §§ 25.181 and 25.182.

## **III. AFFECTED PERSONS**

ETI provides service to approximately 450,000 customers in Texas. ETI proposes to apply the revised EECRF requested herein to all of its retail electric customers that fall within the classes subject to the EECRF as detailed in Section IV below.

## **IV. DESCRIPTION OF APPLICATION**

PURA § 39.905(b) and 16 TAC § 25.182 establish the mechanism under which an electric utility may recover costs associated with providing energy efficiency programs sufficient to

achieve the utility's energy efficiency goal.<sup>1</sup> Not later than May 1 of each year, a utility in an area in which customer choice is not offered must apply to adjust its EECRF effective January 1 of the following year.<sup>2</sup> ETI provides service to an area in which customer choice is not offered.

Through this Application, the Company is seeking to adjust its EECRF for 2021 to recover \$9,440,761, reflecting the following five components: (1) estimated 2021 energy efficiency program costs of the Company's forecasted energy efficiency program budget amount of \$7,608,671; (2) a performance bonus of \$2,404,038 for 2019 program achievements; (c) EM&V costs of \$104,402 to be collected in 2021; (d) a \$731,714 refund for the over-recovery of 2019 program costs, including \$28,423 in interest; and (e) \$12,862 for Cities' rate case expenses and \$42,501 for ETI's rate case expenses in Docket No. 49493. The requested EECRF adjustment would result in a \$0.14 per month increase to a residential customer's bill assuming a monthly usage of 1,000 kWh. This is a 0.12 percent increase for such customers' bill based on charges currently approved by the Commission. The requested revised EECRF rates would be as follows:

<b><u>Rate Class</u></b>	<b><u>EECRF</u></b>
Residential Service	\$0.000915 per kWh
Small General Service	\$0.000370 per kWh
General Service	\$0.000462 per kWh
Large General Service	\$0.001757 per kWh
Large Industrial Power Service	
Transmission Customers Only	\$0.000000 per kWh
Other Than Transmission Customers	(\$0.000250) per kWh
Lighting	\$0.000002 per kWh

---

<sup>1</sup> Under 16 TAC § 25.181(e), the "energy efficiency goal" is a percentage reduction of the annual growth in demand of an electric utility's residential and commercial customers, based on the energy savings achieved from the utility's energy efficiency programs. The energy efficiency goal is a 30% reduction of annual growth in demand up to four-tenths of 1% of its summer weather-adjusted peak demand. However, pursuant to 16 TAC § 25.181(e)(1)(D), the Company's goal cannot be lower than the prior year's goal.

<sup>2</sup> See 16 TAC § 25.182(d)(8).

In support of the Company's Application, ETI submits the Direct Testimony of John "Kelley" Carson and Jessica C. Landry and associated exhibits and workpapers. Mr. Carson's Direct Testimony presents the projected costs of the Company's energy efficiency programs for the 2021 program year, the actual costs of the Company's energy efficiency programs for the 2019 program year, and the performance bonus calculation associated with the Company's 2019 programs. Mr. Carson's testimony also demonstrates that these costs are reasonable and consistent with 16 TAC §§ 25.181 and 25.182.

Ms. Landry's Direct Testimony presents the calculation of the 2019 over-recovery amounts, including interest, as well as the adjusted EECRF rates. She further sponsors revised Rider EECRF, which is the rate schedule that contains the adjusted EECRF rates. Ms. Landry also supports the Company's request to recover affiliate expenses, including the affiliate expenses associated with ETI's 2019 EECRF proceeding.

Two affidavits accompany this Application to further support the expenses associated with ETI's 2019 EECRF proceeding. The affidavit of Wajiha Rizvi<sup>3</sup> supports the reasonableness of the external litigation expenses ETI incurred in connection with its 2019 EECRF proceeding, and the affidavit of Dan Lawton supports the reasonableness of the Cities' expenses in connection with ETI's 2019 EECRF proceeding.

#### **V. NOTICE AND PROTECTIVE ORDER**

The Company will provide notice of this proceeding consistent with 16 TAC § 25.182(d)(13) within seven days of the application filing date and will file an affidavit attesting to the completion of notice within 14 days after this application is filed. The form of the notice to be provided is included in Attachment A to this Application.

---

<sup>3</sup> Given the current shelter-in-place requirements associated with COVID-19, ETI will supplement the affidavit when restrictions are lifted.

The Company also proposes that a protective order be used in this proceeding for the disclosure of protected materials and highly sensitive protected materials. The proposed protective order is included as Attachment B. The proposed protective order is consistent with the protective order proposed and approved in ETI's 2019 EECRF proceeding, Docket No. 49493.

**VI. CONCLUSION AND REQUESTED RELIEF**

In light of the foregoing as well as the accompanying testimony, exhibits, and attachments, ETI requests that the Commission approve the Company's proposed (1) notice, (2) protective order, and (3) EECRF adjustment to be effective with the first billing cycle of January 2021. ETI also requests any further relief to which the Company may be entitled.

Respectfully submitted,

Wajiha Rizvi  
Senior Counsel  
ENTERGY SERVICES, LLC  
919 Congress Avenue, Suite 701  
Austin, Texas 78701  
(512) 487-3962 telephone  
(512) 487-3958 facsimile



By: \_\_\_\_\_  
Wajiha Rizvi  
State Bar No. 24079218

ATTORNEY FOR ENTERGY TEXAS, INC.

**Application of Entergy Texas, Inc. to Adjust Its Energy Efficiency Cost Recovery Factor**

On May 1, 2020, Entergy Texas, Inc. (“ETI” or “the Company”) filed an Application to Adjust its Energy Efficiency Cost Recovery Factor (“EECRF”). The Application was filed with the Public Utility Commission of Texas (“Commission”), pursuant to Public Utility Regulatory Act § 39.905 and 16 Texas Administrative Code § 25.182(d). In its Application, ETI requested that its adjusted EECRF become effective beginning with the first billing cycle of its January 2021 billing month. All Texas retail customers that fall within the classes subject to the EECRF and listed below would be affected by approval of the Company’s Application.

The Company is seeking to adjust its EECRF to recover \$9,440,761, which reflects the following five components: (1) estimated 2021 energy efficiency program costs of the Company’s forecasted energy efficiency program budget amount of \$7,608,671; (2) a performance bonus of \$2,404,038 for 2019 program achievements; (3) EM&V costs of \$104,402 to be collected in 2021; (4) a \$731,714 refund for the over-recovery of 2019 program costs, including \$28,423 in interest; and (5) \$12,862 for Cities’ rate case expenses and \$42,501 for ETI’s rate case expenses in Docket No. 49493. The requested EECRF adjustment would result in a \$0.14 per month increase to a residential customer’s bill assuming a monthly usage of 1,000 kWh. This is a 0.12 percent increase for such customers’ bills based on charges currently approved by the Commission. The requested revised EECRF rates would be as follows:

<b><u>Rate Class</u></b>	<b><u>EECRF</u></b>
Residential Service	\$0.000915 per kWh
Small General Service	\$0.000370 per kWh
General Service	\$0.000462 per kWh
Large General Service	\$0.001757 per kWh
Large Industrial Power Service	
Transmission Customers Only	\$0.000000 per kWh
Other Than Transmission Customers	(\$0.000250) per kWh
Lighting	\$0.000002 per kWh

Persons with questions or who want more information about this Application may contact ETI at 350 Pine Street, Beaumont, Texas 77701, or call toll-free (409) 981-2602 during normal business hours. A copy of the Application is available for inspection at the address identified above.

The Commission will review ETI's Application, establish an intervention deadline for interested persons and determine whether ETI's Application should be approved. The Commission's proceeding to review ETI's Application has been assigned Docket No. \_\_\_\_\_. Persons who wish to intervene in or comment upon these proceedings, or obtain further information, should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the Commission's Office of Consumer Protection at 512-936-7120 or 1-888-782-8477. All requests to intervene should include your email address, fax number (if available), or other information so that the Commission may provide electronic service. Hearing and speech-impaired individuals with text telephones (TTY) may contact the Commission at 512-936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All communications should refer to Docket No. \_\_\_\_\_.



DOCKET NO. \_\_\_\_\_

APPLICATION OF ENTERGY TEXAS,	§	PUBLIC UTILITY COMMISSION
INC. TO ADJUST ITS ENERGY	§	
EFFICIENCY COST RECOVERY	§	OF TEXAS
FACTOR	§	

**PROTECTIVE ORDER**

This Protective Order shall govern the use of all information deemed confidential (Protected Materials) or highly confidential (Highly Sensitive Protected Materials), including information whose confidentiality is currently under dispute, by a party providing information to the Public Utility Commission of Texas (Commission) or to any other party to this proceeding.

It is ORDERED that:

1. **Designation of Protected Materials.** Upon producing or filing a document, including, but not limited to, records on a computer disk or other similar electronic storage medium in this proceeding, the producing party may designate that document, or any portion of it, as confidential pursuant to this Protective Order by typing or stamping on its face “PROTECTED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. \_\_\_\_\_” (or words to this effect) and consecutively Bates Stamping each page. Protected Materials and Highly Sensitive Protected Materials include the documents so designated, as well as the substance of the information contained in the documents and any description, report, summary, or statement about the substance of the information contained in the documents.
2. **Materials Excluded from Protected Materials Designation.** Protected Materials shall not include any information or document contained in the public files of the Commission or any other federal or state agency, court, or local governmental authority subject to the Public Information Act.<sup>1</sup> Protected Materials also shall not include documents or information which at the time of, or prior to disclosure in, a proceeding is or was public

---

<sup>1</sup> TEX. GOVT. CODE ANN. §§ 552.001 – 552.353 (West 2004 and Supp. 2012).

knowledge, or which becomes public knowledge other than through disclosure in violation of this Protective Order.

3. **Reviewing Party.** For the purposes of this Protective Order, a “Reviewing Party” is any party to this docket.
4. **Procedures for Designation of Protected Materials.** On or before the date the Protected Materials or Highly Sensitive Protected Materials are provided to the Commission, the producing party shall file with the Commission and deliver to each party to the proceeding a written statement, which may be in the form of an objection, indicating: (a) any exemptions to the Public Information Act claimed to apply to the alleged Protected Materials; (b) the reasons supporting the producing party’s claim that the responsive information is exempt from public disclosure under the Public Information Act and subject to treatment as protected materials; and (c) that counsel for the producing party has reviewed the information sufficiently to state in good faith that the information is exempt from public disclosure under the Public Information Act and merits the Protected Materials designation.
5. **Persons Permitted Access to Protected Materials.** Except as otherwise provided in this Protective Order, a Reviewing Party may access Protected Materials only through its “Reviewing Representatives” who have signed the Protective Order Certification Form (see Attachment A). Reviewing Representatives of a Reviewing Party include its counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by the Reviewing Party and directly engaged in this proceeding. At the request of the PUC Commissioners, copies of Protected Materials may be produced by Commission Staff. The Commissioners and their staff shall be informed of the existence and coverage of this Protective Order and shall observe the restrictions of the Protective Order.
6. **Highly Sensitive Protected Material Described.** The term “Highly Sensitive Protected Materials” is a subset of Protected Materials and refers to documents or information that a producing party claims is of such a highly sensitive nature that making copies of such

documents or information, or providing access to such documents to employees of the Reviewing Party (except as specified herein), would expose a producing party to unreasonable risk of harm. Highly Sensitive Protected Materials include but are not limited to: (a) customer-specific information protected by § 32.101(c) of the Public Utility Regulatory Act;<sup>2</sup> (b) contractual information pertaining to contracts that specify that their terms are confidential or that are confidential pursuant to an order entered in litigation to which the producing party is a party; (c) market-sensitive fuel price forecasts, wholesale transactions information and/or market-sensitive marketing plans; and (d) business operations or financial information that is commercially sensitive. Documents or information so classified by a producing party shall bear the designation “HIGHLY SENSITIVE PROTECTED MATERIALS PROVIDED PURSUANT TO PROTECTIVE ORDER ISSUED IN DOCKET NO. \_\_\_\_\_” (or words to this effect) and shall be consecutively Bates Stamped. The provisions of this Protective Order pertaining to Protected Materials also apply to Highly Sensitive Protected Materials, except where this Protective Order provides for additional protections for Highly Sensitive Protected Materials. In particular, the procedures herein for challenging the producing party’s designation of information as Protected Materials also apply to information that a producing party designates as Highly Sensitive Protected Materials.

7. **Restrictions on Copying and Inspection of Highly Sensitive Protected Material.**

Except as expressly provided herein, only one copy may be made of any Highly Sensitive Protected Materials except that additional copies may be made to have sufficient copies for introduction of the material into the evidentiary record if the material is to be offered for admission into the record. The Reviewing Party shall maintain a record of all copies made of Highly Sensitive Protected Material and shall send a duplicate of the record to the producing party when the copy or copies are made. The record shall specify the location and the person possessing the copy. Highly Sensitive Protected Material shall be made available for inspection only at the location or locations provided by the producing party, except as specified by Paragraph 9. Limited notes may be made of Highly

---

<sup>2</sup> Public Utility Regulatory Act, TEX. UTIL. CODE ANN. § 32.101(c) 353 (West 2004 and Supp. 2012) (PURA).

Sensitive Protected Materials, and such notes shall themselves be treated as Highly Sensitive Protected Materials unless such notes are limited to a description of the document and a general characterization of its subject matter in a manner that does not state any substantive information contained in the document.

8. **Restricting Persons Who May Have Access to Highly Sensitive Protected Material.**

With the exception of Commission Staff, the Office of the Attorney General (OAG), and the Office of Public Utility Counsel (OPUC), and except as provided herein, the Reviewing Representatives for the purpose of access to Highly Sensitive Protected Materials may be persons who are (a) outside counsel for the Reviewing Party, (b) outside consultants for the Reviewing Party working under the direction of Reviewing Party's counsel, or (c) employees of the Reviewing Party working with and under the direction of Reviewing Party's counsel who have been authorized by the presiding officer to review Highly Sensitive Protected Materials. The Reviewing Party shall limit the number of Reviewing Representatives that review Highly Sensitive Protected materials to the minimum number of persons necessary. The Reviewing Party is under a good faith obligation to limit access to each portion of any Highly Sensitive Protected Materials to two Reviewing Representatives whenever possible. Reviewing Representatives for Commission Staff, OAG and OPUC, for the purpose of access to Highly Sensitive Protected Materials, shall consist of their respective counsel of record in this proceeding and associated attorneys, paralegals, economists, statisticians, accountants, consultants, or other persons employed or retained by them and directly engaged in these proceedings.

9. **Copies Provided of Highly Sensitive Protected Material.** A producing party shall provide one copy of Highly Sensitive Protected Materials specifically requested by the Reviewing Party to the person designated by the Reviewing Party who must be a person authorized to review Highly Sensitive Protected Material under Paragraph 8. Representatives of the Reviewing Party who are authorized to view Highly Sensitive Protected Material may review the copy of Highly Sensitive Protected Materials at the office of the Reviewing Party's representative designated to receive the information. Each Reviewing Party may make two additional copies of Highly Sensitive documents

for outside consultants whose business offices are located outside of Travis County. All restrictions on Highly Sensitive documents in this order shall apply to the additional copies maintained in the outside consultants' offices. Any Highly Sensitive Protected Materials provided to a Reviewing Party may not be copied except as provided in Paragraph 7 and shall be returned along with any copies made pursuant to Paragraph 7 to the producing party within two weeks after the close of the evidence in this proceeding. The restrictions contained herein do not apply to Commission Staff, OPUC, and the OAG when the OAG is representing a party to the proceeding.

10. **Procedures in Paragraphs 10-14 Apply to Commission Staff, OPUC, and the OAG and Control in the Event of Conflict.** The procedures in Paragraphs 10 through 14 apply to responses to requests for documents or information that the producing party designates as Highly Sensitive Protected Materials and provides to Commission Staff, OPUC (if OPUC is a party), and the OAG in recognition of their purely public functions. To the extent the requirements of Paragraphs 10 through 14 conflict with any requirements contained in other paragraphs of this Protective Order, the requirements of these Paragraphs shall control.
11. **Copy of Highly Sensitive Protected Material to be Provided to Commission Staff, OPUC, and the OAG.** When, in response to a request for information by a Reviewing Party, the producing party makes available for review documents or information claimed to be Highly Sensitive Protected Materials, the producing party shall also deliver one copy of the Highly Sensitive Protected Materials to the Commission Staff, OPUC, and the OAG (if the OAG is representing a party) in Austin, Texas. Provided however, that in the event such Highly Sensitive Protected Materials are voluminous, the materials will be made available for review by Commission Staff, OPUC (if OPUC is a party), and the OAG (if the OAG is representing a party) at the designated office in Austin, Texas. The Commission Staff, OPUC (if OPUC is a party), and the OAG (if the OAG is representing a party) may request such copies as are necessary of such voluminous material under the copying procedures specified herein.

12. **Delivery of the Copy of Highly Sensitive Protected Material to Commission Staff and Outside Consultants.** The Commission Staff, OPUC (if OPUC is a party), and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by them to the appropriate members of their staff for review, provided such staff members first sign the certification specified by Paragraph 15. After obtaining the agreement of the producing party, Commission Staff, OPUC (if OPUC is a party), and the OAG (if the OAG is representing a party) may deliver the copy of Highly Sensitive Protected Materials received by it to the agreed, appropriate members of their outside consultants for review, provided such outside consultants first sign the certification in Attachment A.
13. **Restriction on Copying by Commission Staff, OPUC, and the OAG.** Except as allowed by Paragraph 7 and Paragraph 9, Commission Staff, OPUC, and the OAG may not make additional copies of the Highly Sensitive Protected Materials furnished to them unless the producing party agrees in writing otherwise, or, upon a showing of good cause, the presiding officer directs otherwise. Commission Staff, OPUC, and the OAG may make limited notes of Highly Sensitive Protected Materials furnished to them, and all such handwritten notes will be treated as Highly Sensitive Protected Materials as are the materials from which the notes are taken.
14. **Public Information Requests.** In the event of a request for any of the Highly Sensitive Protected Materials under the Public Information Act, an authorized representative of the Commission, OPUC, or the OAG may furnish a copy of the requested Highly Sensitive Protected Materials to the Open Records Division at the OAG together with a copy of this Protective Order after notifying the producing party that such documents are being furnished to the OAG. Such notification may be provided simultaneously with the delivery of the Highly Sensitive Protected Materials to the OAG.
15. **Required Certification.** Each person who inspects the Protected Materials shall, before such inspection, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket, and that I have been given a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPUC shall be used only for the purpose of the proceeding in Docket No. \_\_\_\_\_. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated herein shall not apply.

In addition, Reviewing Representatives who are permitted access to Highly Sensitive Protected Material under the terms of this Protective Order shall, before inspection of such material, agree in writing to the following certification found in Attachment A to this Protective Order:

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

The Reviewing Party shall provide a copy of each signed certification to Counsel for the producing party and serve a copy upon all parties of record.

16. **Disclosures between Reviewing Representatives and Continuation of Disclosure Restrictions after a Person is no Longer Engaged in the Proceeding.** Any Reviewing Representative may disclose Protected Materials, other than Highly Sensitive Protected Materials, to any other person who is a Reviewing Representative provided that, if the person to whom disclosure is to be made has not executed and provided for delivery of a signed certification to the party asserting confidentiality, that certification shall be executed prior to any disclosure. A Reviewing Representative may disclose Highly Sensitive Protected Material to other Reviewing Representatives who are permitted access to such material and have executed the additional certification required for persons who receive access to Highly Sensitive Protected Material. In the event that any Reviewing Representative to whom Protected Materials are disclosed ceases to be engaged in these proceedings, access to Protected Materials by that person shall be

terminated and all notes, memoranda, or other information derived from the protected material shall either be destroyed or given to another Reviewing Representative of that party who is authorized pursuant to this Protective Order to receive the protected materials. Any person who has agreed to the foregoing certification shall continue to be bound by the provisions of this Protective Order so long as it is in effect, even if no longer engaged in these proceedings.

17. **Producing Party to Provide One Copy of Certain Protected Material and Procedures for Making Additional Copies of Such Materials.** Except for Highly Sensitive Protected Materials, which shall be provided to the Reviewing Parties pursuant to Paragraph 9, and voluminous Protected Materials, the producing party shall provide a Reviewing Party one copy of the Protected Materials upon receipt of the signed certification described in Paragraph 15. Except for Highly Sensitive Protected Materials, a Reviewing Party may make further copies of Protected Materials for use in this proceeding pursuant to this Protective Order, but a record shall be maintained as to the documents reproduced and the number of copies made, and upon request the Reviewing Party shall provide the party asserting confidentiality with a copy of that record.
18. **Procedures Regarding Voluminous Protected Materials.** P.U.C. PROC. R. 22.144(h) will govern production of voluminous Protected Materials. Voluminous Protected Materials will be made available in the producing party's voluminous room, in Austin, Texas, or at a mutually agreed upon location, Monday through Friday, 9:00 a.m. to 5:00 p.m. (except on state or Federal holidays), and at other mutually convenient times upon reasonable request.
19. **Reviewing Period Defined.** The Protected Materials may be reviewed only during the Reviewing Period, which shall commence upon entry of this Protective Order and continue until the expiration of the Commission's plenary jurisdiction. The Reviewing Period shall reopen if the Commission regains jurisdiction due to a remand as provided by law. Protected Materials that are admitted into the evidentiary record or



accompanying the evidentiary record as offers of proof may be reviewed throughout the pendency of this proceeding and any appeals.

20. **Procedures for Making Copies of Voluminous Protected Materials.** Other than Highly Sensitive Protected Materials, Reviewing Parties may take notes regarding the information contained in voluminous Protected Materials made available for inspection or they may make photographic, mechanical, or electronic copies of the Protected Materials, subject to the conditions in this Protective Order; provided, however, that before photographic, mechanical, or electronic copies may be made, the Reviewing Party seeking photographic, mechanical, or electronic copies must provide written confirmation of the receipt of copies listed on Attachment B of this Protective Order identifying each piece of Protected Materials or portions thereof the Reviewing Party will need.
21. **Protected Materials to be Used Solely for the Purposes of These Proceedings.** All Protected Materials shall be made available to the Reviewing Parties and their Reviewing Representatives solely for the purposes of these proceedings. Access to the Protected Materials may not be used in the furtherance of any other purpose, including, without limitation: (a) any other pending or potential proceeding involving any claim, complaint, or other grievance of whatever nature, except appellate review proceedings that may arise from or be subject to these proceedings; or (b) any business or competitive endeavor of whatever nature. Because of their statutory regulatory obligations, these restrictions do not apply to Commission Staff or OPUC.
22. **Procedures for Confidential Treatment of Protected Materials and Information Derived from Those Materials.** Protected Materials, as well as a Reviewing Party's notes, memoranda, or other information regarding or derived from the Protected Materials are to be treated confidentially by the Reviewing Party and shall not be disclosed or used by the Reviewing Party except as permitted and provided in this Protective Order. Information derived from or describing the Protected Materials shall be maintained in a secure place and shall not be placed in the public or general files of the Reviewing Party except in accordance with the provisions of this Protective Order. A

Reviewing Party must take all reasonable precautions to insure that the Protected Materials including notes and analyses made from Protected Materials that disclose Protected Materials are not viewed or taken by any person other than a Reviewing Representative of a Reviewing Party.

23. **Procedures for Submission of Protected Materials.** If a Reviewing Party tenders for filing any Protected Materials, including Highly Sensitive Protected Materials, or any written testimony, exhibit, brief, motion, or other type of pleading or other submission at the Commission or before any other judicial body that quotes from Protected Materials or discloses the content of Protected Materials, the confidential portion of such submission shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they contain Protected Material or Highly Sensitive Protected Material and are sealed pursuant to this Protective Order. If filed at the Commission, such documents shall be marked "PROTECTED MATERIAL" and shall be filed under seal with the presiding officer and served under seal to the counsel of record for the Reviewing Parties. The presiding officer may subsequently, on his/her own motion or on motion of a party, issue a ruling respecting whether or not the inclusion, incorporation, or reference to Protected Materials is such that such submission should remain under seal. If filing before a judicial body, the filing party: (a) shall notify the party which provided the information within sufficient time so that the producing party may seek a temporary sealing order; and (b) shall otherwise follow the procedures in Rule 76a, Texas Rules of Civil Procedure.
24. **Maintenance of Protected Status of Materials during Pendency of Appeal of Order Holding Materials are not Protected Materials.** In the event that the presiding officer at any time in the course of this proceeding finds that all or part of the Protected Materials are not confidential or proprietary, by finding, for example, that such materials have entered the public domain or materials claimed to be Highly Sensitive Protected Materials are only Protected Materials, those materials shall nevertheless be subject to the protection afforded by this Protective Order for three (3) full working days, unless otherwise ordered, from the date the party asserting confidentiality receives notice of the

presiding officer's order. Such notification will be by written communication. This provision establishes a deadline for appeal of a presiding officer's order to the Commission. In the event an appeal to the Commissioners is filed within those three (3) working days from notice, the Protected Materials shall be afforded the confidential treatment and status provided in this Protective Order during the pendency of such appeal. Neither the party asserting confidentiality, nor any Reviewing Party waives its right to seek additional administrative or judicial remedies after the Commission's denial of any appeal.

25. **Notice of Intent to Use Protected Materials or Change Materials Designation.**

Parties intending to use Protected Materials shall notify the other parties prior to offering them into evidence or otherwise disclosing such information into the record of the proceeding. During the pendency of Docket No. \_\_\_\_\_. at the Commission, in the event that a Reviewing Party wishes to disclose Protected Materials to any person to whom disclosure is not authorized by this Protective Order, or wishes to have changed the designation of certain information or material as Protected Materials by alleging, for example, that such information or material has entered the public domain, such Reviewing Party shall first file and serve on all parties written notice of such proposed disclosure or request for change in designation, identifying with particularity each of such Protected Materials. A Reviewing Party shall at any time be able to file a written motion to challenge the designation of information as Protected Materials.

26. **Procedures to Contest Disclosure or Change in Designation.** In the event that the party asserting confidentiality wishes to contest a proposed disclosure or request for change in designation, the party asserting confidentiality shall file with the appropriate presiding officer its objection to a proposal, with supporting affidavits, if any, within five (5) working days after receiving such notice of proposed disclosure or change in designation. Failure of the party asserting confidentiality to file such an objection within this period shall be deemed a waiver of objection to the proposed disclosure or request for change in designation. Within five (5) working days after the party asserting confidentiality files its objection and supporting materials, the party challenging

confidentiality may respond. Any such response shall include a statement by counsel for the party challenging such confidentiality that he or she has reviewed all portions of the materials in dispute and, without disclosing the Protected Materials, a statement as to why the Protected Materials should not be held to be confidential under current legal standards, or that the party asserting confidentiality for some reason did not allow such counsel to review such materials. If either party wishes to submit the material in question for in camera inspection, it shall do so no later than five (5) working days after the party challenging confidentiality has made its written filing.

27. **Procedures for Presiding Officer Determination Regarding Proposed Disclosure or Change in Designation.** If the party asserting confidentiality files an objection, the appropriate presiding officer will determine whether the proposed disclosure or change in designation is appropriate. Upon the request of either the producing or Reviewing Party or upon the presiding officer's own initiative, the presiding officer may conduct a prehearing conference. The burden is on the party asserting confidentiality to show that such proposed disclosure or change in designation should not be made. If the presiding officer determines that such proposed disclosure or change in designation should be made, disclosure shall not take place earlier than three (3) full working days after such determination unless otherwise ordered. No party waives any right to seek additional administrative or judicial remedies concerning such presiding officer's ruling.
28. **Maintenance of Protected Status during Periods Specified for Challenging Various Orders.** Any party electing to challenge, in the courts of this state, a Commission or presiding officer determination allowing disclosure or a change in designation shall have a period of ten (10) days from: (a) the date of an unfavorable Commission order; or (b) if the Commission does not rule on an appeal of an interim order, the date an appeal of an interim order to the Commission is overruled by operation of law, to obtain a favorable ruling in state district court. Any party challenging a state district court determination allowing disclosure or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from a state appeals court. Finally, any party challenging a determination of a state appeals court allowing disclosure

or a change in designation shall have an additional period of ten (10) days from the date of the order to obtain a favorable ruling from the state supreme court, or other appellate court. All Protected Materials shall be afforded the confidential treatment and status provided for in this Protective Order during the periods for challenging the various orders referenced in this paragraph. For purposes of this paragraph, a favorable ruling of a state district court, state appeals court, Supreme Court or other appellate court includes any order extending the deadlines in this paragraph.

29. **Other Grounds for Objection to Use of Protected Materials Remain Applicable.**

Nothing in this Protective Order shall be construed as precluding any party from objecting to the use of Protected Materials on grounds other than confidentiality, including the lack of required relevance. Nothing in this Protective Order constitutes a waiver of the right to argue for more disclosure, provided, however, that unless the Commission or a court orders such additional disclosure, all parties will abide by the restrictions imposed by the Protective Order.

30. **Protection of Materials from Unauthorized Disclosure.** All notices, applications, responses, or other correspondence shall be made in a manner which protects Protected Materials from unauthorized disclosure.

31. **Return of Copies of Protected Materials and Destruction of Information Derived from Protected Materials.** Following the conclusion of these proceedings, each Reviewing Party must, no later than thirty (30) days following receipt of the notice described below, return to the party asserting confidentiality all copies of the Protected Materials provided by that party pursuant to this Protective Order and all copies reproduced by a Reviewing Party, and counsel for each Reviewing Party must provide to the party asserting confidentiality a letter by counsel that, to the best of his or her knowledge, information, and belief, all copies of notes, memoranda, and other documents regarding or derived from the Protected Materials (including copies of Protected Materials) that have not been so returned, if any, have been destroyed, other than notes, memoranda, or other documents which contain information in a form which, if made

public, would not cause disclosure of the substance of Protected Materials. As used in this Protective Order, “conclusion of these proceedings” refers to the exhaustion of available appeals, or the running of the time for the making of such appeals, as provided by applicable law. If, following any appeal, the Commission conducts a remand proceeding, then the “conclusion of these proceedings” is extended by the remand to the exhaustion of available appeals of the remand, or the running of the time for making such appeals of the remand, as provided by applicable law. Promptly following the conclusion of these proceedings, counsel for the party asserting confidentiality will send a written notice to all other parties, reminding them of their obligations under this Paragraph. Nothing in this Paragraph shall prohibit counsel for each Reviewing Party from retaining two (2) copies of any filed testimony, brief, application for rehearing, hearing exhibit, or other pleading which refers to Protected Materials provided that any such Protected Materials retained by counsel shall remain subject to the provisions of this Protective Order.

32. **Applicability of Other Law.** This Protective Order is subject to the requirements of the Public Information Act, the Open Meetings Act,<sup>3</sup> the Texas Securities Act,<sup>4</sup> and any other applicable law, provided that parties subject to those acts will notify the party asserting confidentiality, if possible under those acts, prior to disclosure pursuant to those acts. Such notice shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.
33. **Procedures for Release of Information under Order.** If required by order of a governmental or judicial body, the Reviewing Party may release to such body the confidential information required by such order; provided, however, that: (a) the Reviewing Party shall notify the producing party of the order requiring the release of

---

<sup>3</sup> TEX. GOV'T. CODE ANN. § 551.001-551.146 (West 2004 and Supp. 2012).

<sup>4</sup> TEX. REV. CIV. STAT. ANN. arts. 581-1 to 581-43 (Vernon 2010).

such information within five (5) calendar days of the date the Reviewing Party has notice of the order; (b) the Reviewing Party shall notify the producing party at least five (5) calendar days in advance of the release of the information to allow the producing party to contest any release of the confidential information; and (c) the Reviewing Party shall use its best efforts to prevent such materials from being disclosed to the public. The terms of this Protective Order do not preclude the Reviewing Party from complying with any valid and enforceable order of a state or federal court with competent jurisdiction specifically requiring disclosure of Protected Materials earlier than contemplated herein. The notice specified in this section shall not be required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

34. **Best Efforts Defined.** . The term “best efforts” as used in the preceding paragraph requires that the Reviewing Party attempt to ensure that disclosure is not made unless such disclosure is pursuant to a final order of a Texas governmental or Texas judicial body, the written opinion of the Texas Attorney General sought in compliance with the Public Information Act, or the request of governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials. The Reviewing Party is not required to delay compliance with a lawful order to disclose such information but is simply required to timely notify the party asserting confidentiality, or its counsel, that it has received a challenge to the confidentiality of the information and that the Reviewing Party will either proceed under the provisions of § 552.301 of the Public Information Act, or intends to comply with the final governmental or court order. Provided, however, that no notice is required where the Protected Materials are sought by governmental officials authorized to conduct a criminal or civil investigation that relates to or involves the Protected Materials, and those governmental officials aver in writing that such notice could compromise the investigation and that the governmental entity involved will maintain the confidentiality of the Protected Materials.

35. **Notify Defined.** “Notify” for purposes of Paragraphs 32, 33, and 34 means written notice to the party asserting confidentiality at least five (5) calendar days prior to release; including when a Reviewing Party receives a request under the Public Information Act. However, the Commission, OAG, or OPUC may provide a copy of Protected Materials to the Open Records Division of the OAG as provided herein.
36. **Requests for Non-Disclosure.** If the producing party asserts that the requested information should not be disclosed at all, or should not be disclosed to certain parties under the protection afforded by this Protective Order, the producing party shall tender the information for in camera review to the presiding officer within ten (10) calendar days of the request. At the same time, the producing party shall file and serve on all parties its argument, including any supporting affidavits, in support of its position of non-disclosure. The burden is on the producing party to establish that the material should not be disclosed. The producing party shall serve a copy of the information under the classification of Highly Sensitive Protected Material to all parties requesting the information that the producing party has not alleged should be prohibited from reviewing the information.

Parties wishing to respond to the producing party’s argument for non-disclosure shall do so within five (5) working days. Responding parties should explain why the information should be disclosed to them, including why disclosure is necessary for a fair adjudication of the case if the material is determined to constitute a trade secret. If the presiding officer finds that the information should be disclosed as Protected Material under the terms of this Protective Order, the presiding officer shall stay the order of disclosure for such period of time as the presiding officer deems necessary to allow the producing party to appeal the ruling to the Commission.

37. **Sanctions Available for Abuse of Designation.** If the presiding officer finds that a producing party unreasonably designated material as Protected Material or as Highly Sensitive Protected Material, or unreasonably attempted to prevent disclosure pursuant to Paragraph 36, the presiding officer may sanction the producing party pursuant to P.U.C. PROC. R. 22.161.



38. **Modification of Protective Order.** Each party shall have the right to seek changes in this Protective Order as appropriate from the presiding officer.
39. **Breach of Protective Order.** In the event of a breach of the provisions of this Protective Order, the producing party, if it sustains its burden of proof required to establish the right to injunctive relief, shall be entitled to an injunction against such breach without any requirements to post bond as a condition of such relief. The producing party shall not be relieved of proof of any element required to establish the right to injunctive relief. In addition to injunctive relief, the producing party shall be entitled to pursue any other form of relief to which it is entitled.

ATTACHMENT A

**Protective Order Certification**

I certify my understanding that the Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Order in this docket and that I have received a copy of it and have read the Protective Order and agree to be bound by it. I understand that the contents of the Protected Materials, any notes, memoranda, or any other form of information regarding or derived from the Protected Materials shall not be disclosed to anyone other than in accordance with the Protective Order and unless I am an employee of the Commission or OPUC shall be used only for the purpose of the proceeding in Docket No. \_\_\_\_\_. I acknowledge that the obligations imposed by this certification are pursuant to such Protective Order. Provided, however, if the information contained in the Protected Materials is obtained from independent public sources, the understanding stated here shall not apply.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Party Represented

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

I certify that I am eligible to have access to Highly Sensitive Protected Material under the terms of the Protective Order in this docket.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Party Represented

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title and Department

ATTACHMENT B

I request to view/copy the following documents:

Document Requested	# of Copies	Non-Confidential	Protected Materials and/or Highly Sensitive Protected Materials

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Party Represented

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

DOCKET NO. \_\_\_\_\_

APPLICATION OF ENTERGY	§	PUBLIC UTILITY COMMISSION
TEXAS, INC. TO ADJUST ITS	§	
ENERGY EFFICIENCY COST	§	OF TEXAS
RECOVERY FACTOR	§	

DIRECT TESTIMONY

OF

JOHN K. CARSON

ON BEHALF OF

ENTERGY TEXAS, INC.

MAY 1, 2020

ENTERGY TEXAS, INC.  
DIRECT TESTIMONY OF JOHN K. CARSON  
2020 EECRF APPLICATION

TABLE OF CONTENTS

	<u>Page</u>
I. WITNESS INTRODUCTION AND QUALIFICATIONS .....	1
II. PURPOSE OF TESTIMONY .....	3
III. ENERGY EFFICIENCY UNDER THE COMMISSION’S RULES .....	4
IV. 2019 PROGRAM YEAR ENERGY EFFICIENCY PROGRAMS.....	7
V. EECRF FOR 2021 .....	9
A. Verification and Allocation of Costs and Revenues .....	11
B. Incentive Costs.....	1
C. Administrative Costs and R&D Costs .....	14
D. EM&V Program and Costs .....	17
E. 2019 EECRF Proceeding Costs .....	19
F. Bonus Calculation.....	20
VI. REASONABLENESS OF 2019 COSTS.....	20
VII. CONCLUSION.....	24

EXHIBITS

Exhibit JKC-1	2020 Energy Efficiency Plan and Report
Exhibit JKC-2	List of Energy Efficiency Measures and their Estimated Useful Life
Exhibit JKC-3	2019 Program Sponsors/Implementors Receiving >5% of Program Incentives (Public)
Exhibit JKC-3	2019 Program Sponsors/Implementors Receiving >5% of Program Incentives (Highly Sensitive) <i>on CD</i>
Exhibit JKC-4	Consumer Price Index and Revised Cost Caps

Exhibit JKC-5	Directly Assigned Costs by Rate Class for Program Year 2019
Exhibit JKC-6	Projected Evaluation, Measurement, and Verification Costs for Program Year 2021
Exhibit JKC-7	Projected Costs by Rate Class for Program Year 2021
Exhibit JKC-8	Bonus Calculation for Program Year 2019
Exhibit JKC-9	Cost-Benefit Calculations for Program Year 2019
Exhibit JKC-10	2019 Administrative Costs Detail

1 I. WITNESS INTRODUCTION AND QUALIFICATIONS

2 Q1. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.

3 A. My name is John “Kelley” Carson. I am employed by Entergy Texas, Inc. (“ETI”  
4 or “the Company”) as a Lead Account Service Manager. I manage several energy  
5 efficiency programs and assist with budgeting requirements and energy efficiency  
6 program forecasting. My business address is 10055 Grogan’s Mill Rd., The  
7 Woodlands, TX, 77380.

8

9 Q2. FOR WHOM ARE YOU TESTIFYING?

10 A. I am testifying on behalf of ETI.

11

12 Q3. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND  
13 AND PROFESSIONAL EXPERIENCE.

14 A. I have worked for Gulf States Utilities, Inc., Entergy Gulf States, Inc., and then ETI  
15 for over 35 years in customer relations, marketing, and in managing ETI’s energy  
16 efficiency programs. I have a bachelor’s degree in Accounting from Southwest  
17 Texas State University, a Master of Business Administration from LeTourneau  
18 University, and a Master of Science in Military History – Civil War from American  
19 Military University. In addition, I have passed the Home Energy Rating System  
20 test from Southface Energy Institute, which certifies me as a Home Energy Rater.

1 Q4. PLEASE DESCRIBE YOUR CURRENT JOB RESPONSIBILITIES AS THEY  
2 CONCERN ENERGY EFFICIENCY PROGRAMS.

3 A. I am responsible for developing and implementing ETI's energy efficiency  
4 programs in Texas. As part of my job description, I work closely with the various  
5 vendors and participants in ETI's energy efficiency programs. I assisted the  
6 Company with the rulemakings resulting in the initial adoption of 16 Tex. Admin.  
7 Code ("TAC") § 25.181, the adoption of the revisions to the rule that became  
8 effective in January 2013, and the most recent rulemaking resulting in a revised 16  
9 TAC § 25.181, newly created § 25.182, and revised § 25.183. I am a member, and  
10 former Chairman, of the Electric Utility Marketing Managers of Texas  
11 ("EUMMOT"), which is an association of electric utilities working to achieve the  
12 goal for energy efficiency established under Section 39.905 of the Public Utility  
13 Regulatory Act ("PURA"). EUMMOT members include Oncor Electric Delivery  
14 Company LLC, CenterPoint Energy Houston Electric, LLC, AEP Texas, Inc.,  
15 Southwestern Electric Power Company, Texas-New Mexico Power Company, Xcel  
16 Energy, El Paso Electric Company, and ETI.

17 I currently manage some of ETI's energy efficiency programs, including the  
18 Residential Entergy Solutions Market Transformation Program ("MTP"), and the  
19 Load Management Standard Offer Program ("SOP"). In addition, I am charged  
20 with developing ETI's energy efficiency savings goals and the budget requirements  
21 necessary to achieve those goals.



1 Q5. WAS THIS TESTIMONY PREPARED BY YOU OR UNDER YOUR DIRECT  
2 SUPERVISION?

3 A. Yes.  
4

5 II. PURPOSE OF TESTIMONY

6 Q6. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY IN THIS  
7 PROCEEDING?

8 A. The purpose of my direct testimony is to support the Company's request to adjust  
9 its Energy Efficiency Cost Recovery Factor ("EECRF"). In particular, I present the  
10 Company's Energy Efficiency Plan and Report ("EEPR") as Exhibit JKC-1 and  
11 provide direct testimony in support of the actual and projected costs that form the  
12 basis of the requested adjustment in EECRF rates.

13 Exhibit JKC-1 describes the Company's 2019 energy efficiency programs  
14 and the results of those programs. It also discusses the Company's current energy  
15 efficiency program portfolio, projections for next year, and the circumstances and  
16 market conditions that support the reasonableness of the Company's programs and  
17 projections. Exhibit JKC-1 includes a projection of the annual growth in demand,  
18 an estimate of the energy and peak demand reduction savings to be obtained  
19 through each of the Company's energy efficiency programs, a description of the  
20 customer classes targeted by the energy efficiency programs, and the proposed  
21 annual budget required to implement the programs for each eligible class of  
22 customers.

1           III.    ENERGY EFFICIENCY UNDER THE COMMISSION'S RULES

2    Q7.   HOW IS ENERGY EFFICIENCY DEFINED UNDER THE COMMISSION'S  
3           RULES?

4    A.    The term "energy efficiency," as defined by the Public Utility Commission of Texas  
5           ("PUCT" or "Commission") in 16 TAC § 25.181(c)(12), is as follows:

6                   Improvements in the use of electricity that are achieved through  
7                   customer facility or customer equipment improvements, devices,  
8                   processes, or behavioral or operational changes that produce  
9                   reductions in demand or energy consumption with the same or  
10                  higher level of end-use service and that do not materially degrade  
11                  existing levels of comfort, convenience, and productivity.

12

13   Q8.   HOW IS ENERGY EFFICIENCY MEASURED UNDER THE COMMISSION'S  
14           RULES?

15   A.    16 TAC § 25.181 indicates that energy efficiency is to be measured by the energy  
16           savings and peak demand reduction. Energy savings is defined in 16 TAC  
17           § 25.181(c)(18) as "[a] quantifiable reduction in a customer's consumption of  
18           energy that is attributable to energy efficiency measures, usually expressed in kWh  
19           or MWh." Peak demand reduction is defined in 16 TAC § 25.181(c)(45) as  
20           "[r]eduction in demand on the utility's system at the times of the utility's summer  
21           peak period or winter peak period."

1 Q9. WHAT ARE THE REQUIRED ENERGY EFFICIENCY GOALS UNDER THE  
2 COMMISSION'S RULES?

3 A. Pursuant to 16 TAC § 25.181(e), the Commission's "energy efficiency goal" is a  
4 percentage reduction of the average annual growth in demand of an electric utility's  
5 residential and commercial customers. Under the rule, the energy efficiency goal  
6 is a 30% reduction of annual growth in demand up to four-tenths of 1% of the  
7 summer weather-adjusted peak demand. Further, in accordance with the "ratchet"  
8 requirements of 16 TAC § 25.181(e)(1)(D), a utility's demand reduction goal in  
9 any year cannot be lower than its goal for the prior year. Accordingly, ETI's  
10 demand savings goal for 2021 cannot be lower than its goal for 2020, which was  
11 15,500 kW.

12 The energy savings goal is calculated under 16 TAC § 25.181(e)(4) by  
13 applying a 20% conservation load factor against the utility's demand savings goal.  
14 Thus, the energy savings goal for ETI for 2020 was 27,156,000 kWh and cannot be  
15 lower than that amount for 2021.

16

17 Q10. HOW MAY A UTILITY ACHIEVE ITS ENERGY EFFICIENCY GOALS  
18 UNDER THE COMMISSION'S RULES?

19 A. Pursuant to 16 TAC § 25.181(d), utilities are encouraged to achieve demand  
20 reduction and energy savings through a portfolio of cost-effective programs that  
21 exceed each utility's energy efficiency goals while staying within the cost caps  
22 established in 16 TAC § 25.182(d)(7). An energy efficiency program is deemed to  
23 be cost-effective if the cost of the program to the utility is less than or equal to the

1           benefits of the program. The present value of the program benefits is calculated  
2           over the projected life of the measures installed or implemented under the program.

3  
4   Q11.   WHAT TYPES OF ENERGY EFFICIENCY MEASURES ARE ALLOWED IN  
5           A UTILITY'S ENERGY EFFICIENCY PROGRAM, AND WHAT IS THE  
6           ESTIMATED USEFUL LIFE OF EACH MEASURE?

7   A.    The term "energy efficiency measures" is defined in 16 TAC § 25.181(c)(14) as  
8           "[e]quipment, materials, and practices, including practices that result in behavioral  
9           or operational changes, implemented at a customer's site on the customer's side of  
10          the meter that result in a reduction at the customer level and/or on the utility's  
11          system in electric energy consumption, measured in kWh, or peak demand,  
12          measured in kW, or both."

13                The types of measures allowed in a utility's 2019 energy efficiency  
14                programs are listed in Exhibit JKC-2. The source for this list is the Texas Resource  
15                Manual ("TRM"), Version 6.0, which is discussed further below. A revised TRM,  
16                Version 7.0, became effective January 1, 2020.

17                The Estimated Useful Life ("EUL") of a measure is defined in 16 TAC  
18                § 25.181(c)(19) as the "number of years until 50% of the installed measures are still  
19                operable and providing savings and is used interchangeably with the term 'measure  
20                life.'" The EUL determines the period of time over which the benefits of the energy  
21                efficiency measure are expected to accrue.

1 Q12. HAVE ANY ELIGIBLE CUSTOMERS OPTED OUT OF THE ENERGY  
2 EFFICIENCY PROGRAMS PURSUANT TO 16 TAC § 25.181(U)?

3 A. Yes. A few eligible customers have opted out of the program pursuant to 16 TAC  
4 § 25.181(u). The load of these opt-out customers is removed from the calculation  
5 of average load growth as reflected in Table 4 of my Exhibit JKC-1, and their billing  
6 determinants are removed from the rate calculations presented in the testimony of  
7 Company witness Landry.

8

9 IV. 2019 PROGRAM YEAR ENERGY EFFICIENCY PROGRAMS

10 Q13. WHAT ENERGY EFFICIENCY PROGRAMS DID ETI OFFER DURING THE  
11 2019 PROGRAM YEAR?

12 A. ETI implements an array of energy efficiency programs each year that reasonably  
13 considers the market conditions, maturity of programs, and regulatory  
14 requirements. In 2019, ETI offered five energy efficiency programs: Residential  
15 SOP, Hard-to-Reach SOP, Load Management SOP, Residential Solutions MTP,  
16 and Commercial Solutions MTP.

17

18 Q14. PLEASE DESCRIBE THE ENERGY EFFICIENCY PROGRAMS THAT THE  
19 COMPANY IMPLEMENTED IN 2019.

20 A. Exhibit JKC-1 provides information on each of ETI's energy efficiency programs  
21 for 2019, including a list of all programs, energy and demand savings for each  
22 program, and the costs associated with the energy efficiency programs. It also

1 describes the benefits of each program. The energy efficiency programs are diverse  
2 so that all eligible customers have an opportunity to participate.

3  
4 Q15. DURING THE 2019 PROGRAM YEAR, WHAT REDUCTIONS IN PEAK  
5 DEMAND AND ENERGY DID ETI ACHIEVE THROUGH ITS ENERGY  
6 EFFICIENCY PROGRAMS?

7 A. As shown in Table 8 of Exhibit JKC-1, ETI achieved a demand reduction,  
8 calculated at the meter, of 21,005 kW and energy savings of 44,572,012 kWh  
9 during program year 2019 as compared to the goals of 15,500 kW and 27,156,000  
10 kWh. Table 8 of Exhibit JKC-1 also provides a breakdown of the projected and  
11 actual peak demand reduction and energy savings for each program.

12  
13 Q16. WHAT WAS ETI'S APPROVED BUDGET TO ACHIEVE ITS ENERGY  
14 EFFICIENCY GOALS FOR THE 2019 PROGRAM YEAR?

15 A. As shown in Table 10, Exhibit JKC-1, ETI's approved budget to achieve its 2019  
16 energy efficiency goals was \$7,613,074.

17  
18 Q17. WHAT WERE ETI'S ACTUAL COSTS TO REACH ITS ENERGY  
19 EFFICIENCY GOALS IN PROGRAM YEAR 2019?

20 A. As shown in Table 10, Exhibit JKC-1, ETI's actual costs in 2019 totaled  
21 \$7,258,547, roughly \$354,000 less than the forecasted costs. I discuss the reasons  
22 why the costs were lower than expected in Q41 below.

1 Q18. HOW MANY PROJECT SPONSORS AND PROGRAM IMPLEMENTERS  
2 PARTICIPATED IN ETI'S ENERGY EFFICIENCY PROGRAMS IN 2019 AND  
3 WHICH ONES RECEIVED 5% OR MORE OF THE PROGRAM INCENTIVES?

4 A. The various Project Sponsors and Program Implementers are listed in the public  
5 version of Exhibit JKC-3. Information regarding the amounts and percentage  
6 received per program for sponsors and implementers receiving 5% or more of  
7 program incentives is presented in the Highly Sensitive version of Exhibit JKC-3.

8

9

V. EECRF FOR 2021

10 Q19. DOES ETI CURRENTLY HAVE AN EECRF IN PLACE?

11 A. Yes. ETI's current EECRF was approved in Docket No. 49493<sup>1</sup> to recover  
12 \$8,010,785. As explained in the direct testimony of ETI witness Jessica C. Landry,  
13 this amount included: (a) \$7,508,671 for ETI's estimated 2020 energy-efficiency  
14 program costs, (b) \$1,673,207 for the performance bonus for 2018 program  
15 achievements, (c) \$106,180 in Evaluation, Measurement, and Verification  
16 ("EM&V") expenses to be collected in 2020; (d) a refund of \$1,386,610 for the  
17 over-recovery of 2018 program costs, including \$37,935 in interest; and (e) \$11,273  
18 for Cities' rate-case expenses and \$98,064 for ETI's rate-case expenses in Docket  
19 No. 48333. ETI began collecting revenues under the current tariff with the first  
20 billing cycle of the January 2020 billing month.

---

<sup>1</sup> *Application of Entergy Texas, Inc. for Authority to Redetermine Rates for the Energy Efficiency Cost Recovery Factor Tariff*, Docket No. 49493, Final Order (November 21, 2019).

1 Q20. PLEASE DESCRIBE THE REQUESTED EECRF FOR 2021.

2 A. ETI is asking that its 2021 EECRF be set to recover \$9,440,761 which is comprised  
3 of five parts: (a) the Company's forecasted energy efficiency program budget  
4 amount of \$7,608,671; (b) a 2019 performance bonus of \$2,404,038 for 2019  
5 program achievements; (c) EM&V costs of \$104,402 to be collected in 2021; (d) a  
6 \$731,714 refund for the over-recovery of 2019 program costs, including \$28,423  
7 in interest; and (e) \$12,862 for Cities' rate-case expenses and \$42,501 for ETI's  
8 rate-case expenses in Docket No. 49493. The costs components included in the  
9 2021 EECRF are shown in detail in Ms. Landry's Exhibit JCL-3.

10

11 Q21. HOW WERE THE PROPOSED 2021 EECRF RATES CALCULATED?

12 A. Company witness Landry describes the calculation of the proposed 2021 EECRF  
13 rates in her Direct Testimony.

14

15 Q22. IS THE COMPANY'S PROPOSED EECRF FOR 2021 DESIGNED TO  
16 ACHIEVE THE REQUIRED ENERGY EFFICIENCY GOAL AND COMPLY  
17 WITH THE COST CAPS?

18 A. Yes. Under the Company's request, ETI projects that it can achieve the required  
19 energy efficiency goal in 2021 and comply with the prescribed cost caps under the  
20 Commission rule.

21 The cost caps, under 16 TAC § 25.182(d)(7)(C), can be "calculated to be  
22 the prior period's cost caps increased by a rate equal to the most recently available  
23 calendar year's percentage change in the South urban [Consumer Price Index



1 (“CPI”)], as determined by the Federal Bureau of Labor Statistics.” The increase  
2 in the CPI from 2018 to 2019 is shown in Exhibit JKC-4. Accordingly, for  
3 residential customers, the cost cap applicable to the 2021 EECRF is \$0.001351 per  
4 kWh and the commercial cost cap is \$0.000845 per kWh.

5 As shown by Company witness Landry, the Company’s proposed rates are  
6 consistent with the cost cap requirements.

7  
8 A. Verification and Allocation of Costs and Revenues

9 Q23. HOW DID THE COMPANY TRACK AND ALLOCATE ITS 2019 COSTS AND  
10 REVENUES?

11 A. Table 10 in Exhibit JKC-1 shows all the 2019 costs. My Exhibit JKC-5 shows the  
12 2019 costs that were directly assigned to specific rate classes. All costs that were  
13 incurred by a particular customer were assigned to that customer’s rate class. All  
14 costs that were incurred by a particular rate class were assigned to that rate class.

15 In particular, all incentive costs, both cash payments to customers and the  
16 costs of services provided to customers, were tracked by ETI and/or its vendors so  
17 that the costs of the incentives could be assigned to the rate class of the customer  
18 who received the incentive payment or service. In that way, all incentive costs were  
19 directly assigned to the rate class that received services under the program.

20 Additionally, administrative costs were directly allocated to programs to the  
21 extent reasonably possible and, consistent with 16 TAC § 25.181(i), any portion of  
22 the administrative costs that was not directly assignable to a specific program was  
23 allocated among the programs in proportion to the program incentive costs. Table

1           10 of Exhibit JKC-1 shows total 2019 administrative costs per program, and Exhibit  
2           JKC-5 shows those costs directly allocated to rate classes.

3                   Research and Development (“R&D”) costs were allocated among the  
4           programs in proportion to the program incentive costs. Page 5 of Ms. Landry’s  
5           Exhibit JCL-1 shows the allocation of the R&D costs to the rate classes.

6                   The costs of last year’s EECRF proceeding were related to all programs and  
7           rate classes and so were also allocated across all programs in proportion to the  
8           program incentive costs (see Table 10 of Exhibit JKC-1) before being allocated to  
9           the rate class or classes that received services under that program as shown on page  
10          5 of Ms. Landry’s Exhibit JCL-1.

11                  As further detailed below, evaluation, measurement, and verification  
12          (“EM&V”) costs were allocated to the programs pursuant to the methodology  
13          recommended by the State’s EM&V evaluation team, and the Company then  
14          allocated the costs to the rate classes that received services under each program in  
15          proportion to the rate classes’ share of that program’s incentive costs.

16                  Revenues for 2019 were tracked by rate class and are identified by ETI  
17          witness Landry in her Exhibit JCL-1 (Page 4 of 6) and Exhibit JCL-4.

18

19                                   B.     Incentive Costs

20    Q24.   HOW MUCH DOES THE COMPANY PROJECT TO SPEND ON INCENTIVE  
21          COSTS IN 2021?

22    A.     The Company’s projected incentive payments for its 2021 programs are  
23          approximately \$6,785,686 million, which is reflected in Table 6 of Exhibit JKC-1.

1           In addition, a breakdown of the projected energy efficiency program costs by rate  
2           class is shown in Exhibit JKC-7.

3  
4   Q25.   ARE THESE INCENTIVE PAYMENT COSTS REASONABLE?

5   A.     Yes. The Company only includes in its request for incentive payments those costs  
6           that meet the definition of incentive payments under 16 TAC § 25.181(c)(29). The  
7           Company regularly reviews what other utilities are paying for various measures to  
8           ensure its costs are in line with incentive payments of other utilities. In addition,  
9           several Project Sponsors that work with ETI also work for other utilities and  
10          provide feedback on many of the incentives being paid around the state.

11                 For 2021, the Company has proposed no changes to its projected incentive  
12           payment costs as compared to its approved budget for 2020, other than amounts for  
13           the new R&D project described below.

14  
15   Q26.   HOW MUCH DID THE COMPANY INCUR FOR INCENTIVE COSTS IN 2019?

16   A.     As shown in Table 10 of Exhibit JKC-1, ETI's incentive costs for 2019 were  
17           \$6,368,984. I discuss the reasonableness of these costs in Section VI below.

1 C. Administrative Costs and R&D Costs

2 Q27. PLEASE DESCRIBE THE PROJECTED ADMINISTRATIVE COSTS FOR THE  
3 COMPANY'S 2021 ENERGY EFFICIENCY PROGRAMS.

4 A. As shown in Table 6 of Exhibit JKC-1, the Company's projected administrative  
5 costs for 2021 are \$822,985, which is the same as its approved budget for 2020,  
6 other than amounts for the new R&D project described below.

7

8 Q28. DO THE COMPANY'S PROJECTED 2021 COSTS INCLUDE ANY R&D  
9 COSTS?

10 A. Yes. The Company has included \$122,000 in its proposed 2021 budget for R&D  
11 costs. This amount first includes \$22,000 to reflect 20% of the costs for the  
12 continued development of a database that is the repository of all ETI's energy  
13 efficiency programs.

14 Pursuant to discussions with Commission Staff over the course of ETI's  
15 2018 EECRF proceeding, Docket No. 47115, and as reflected in Errata No. 2 filed  
16 in that docket on July 13, 2018, ETI and Staff agreed to classify 80% of the costs  
17 of the database as administrative costs and 20% as R&D costs.

18 Additionally, the proposed R&D costs for 2021 include \$100,000 (\$75,000  
19 for incentives costs and \$25,000 for administrative costs) to support plans to  
20 explore an opportunity to launch an online retail marketplace website that promotes  
21 energy efficient measures such as SMART thermostats, SMART power strips, and  
22 higher-efficiency LED light bulbs and fixtures, to its residential customers by  
23 offering the measures at a discounted price. A strategic marketing campaign will

1           coincide with the website launch. This potential program would be similar in  
2           structure to a program CenterPoint Energy Houston Electric LLC has administered  
3           for several years.

4

5   Q29. DO THE COMPANY'S PROJECTED 2021 ADMINISTRATIVE COSTS  
6       INCLUDE ALL COSTS FOR THE DISSEMINATION OF INFORMATION  
7       AND OUTREACH?

8   A.   Yes.

9

10   Q30. PLEASE DESCRIBE THE COMPANY'S ACTUAL ADMINISTRATIVE  
11       COSTS FOR ITS 2019 ENERGY EFFICIENCY PROGRAMS.

12   A.   Tables 9 and 10 of Exhibit JKC-1 shows the Company's actual administrative costs  
13       in 2019. The requested costs in this case include only costs that are recoverable  
14       under 16 TAC § 25.181(g)(1). The administrative costs are comprised of costs that  
15       are necessary and appropriate for successful program implementation. These costs  
16       include Company labor costs charged to specific energy efficiency programs or in  
17       support of the Company's programs in general, as well as information and outreach  
18       programs designed to explain the Company's energy efficiency programs and  
19       improve customer awareness of the programs and measures. For additional detail  
20       regarding these costs, please see Exhibit JKC-10.

1 Q31. ARE THE COMPANY'S 2021 AND 2019 ADMINISTRATIVE COSTS  
2 REASONABLE?

3 A. Yes. These costs are also consistent with the spending caps for administrative costs  
4 in the Commission's rules. Under 16 TAC § 25.181(g), a utility may recover its  
5 administrative costs to the extent these costs do not exceed 15% of the utility's total  
6 program costs and to the extent the costs, including R&D, do not exceed 20% of  
7 the total program costs.<sup>2</sup>

8 ETI's projected 2021 administrative costs total 10.06% of total projected  
9 2021 program year costs identified in Table 6 of Exhibit JKC-1. When R&D costs  
10 are included, the costs equal 10.67% of total program costs. The projections are  
11 consistent with the Commission cap on administrative costs as well as the historic  
12 levels of costs the Company has incurred to manage its energy efficiency programs.

13 The Company's actual 2019 administrative costs are also consistent with  
14 the Commission cap on administrative spending. Including the ETI costs of last  
15 year's EECRF proceeding, the 2019 administrative costs equal 10.19% of total  
16 program costs. When R&D costs are included as well, the costs equal 10.64% of  
17 total program costs. With the actual and projected amounts being under the  
18 prescribed caps, the Company's EECRF costs present a reasonable level of  
19 administrative and R&D costs.

---

<sup>2</sup> Pursuant to 16 TAC § 25.181(g)(1)(G), the costs paid by a utility to Cities pursuant to PURA § 33.023(b) for Cities' EECRF proceeding costs are not included in the administrative caps, and pursuant to 16 TAC § 25.181(o)(10)(B), EM&V costs do not count against the utility's cost caps or administration spending caps.

1 Q32. ARE THE COMPANY'S TOTAL 2021 PROJECTED ENERGY EFFICIENCY  
2 COSTS REASONABLE?

3 A. Yes. The projected costs of the Company's energy efficiency programs are  
4 developed based on the experience of myself and my energy efficiency team with  
5 input from our consultants and vendors, and the costs are under the cost caps as  
6 shown on page 1 of Ms. Landry's Exhibit JCL-1.

7

8 D. EM&V Program and Costs

9 Q33. PLEASE DESCRIBE THE STATEWIDE EM&V PROGRAM AND ITS  
10 REVIEW OF ETI'S ENERGY EFFICIENCY PROGRAMS.

11 A. Under 16 TAC § 25.181(o)(3), the Commission selects an entity to act as its EM&V  
12 contractor and conduct evaluation activities. The EM&V contractor operates under  
13 the Commission's supervision and oversight and offers independent analysis to the  
14 Commission in order to assist in making decisions in the public interest.

15 With the oversight of the Commission Staff and the assistance of utilities  
16 and other parties, the EM&V contractor evaluates specific programs and the  
17 portfolio of programs for each utility. EM&V objectives include: (1) documenting  
18 the impacts of the utilities' individual energy efficiency and load management  
19 portfolios, comparing their performance with established goals, and determining  
20 cost-effectiveness; (2) providing feedback for the Commission, Commission Staff,  
21 utilities, and other stakeholders on program portfolio performance; and (3)  
22 providing input into the utilities' and ERCOT's planning activities.

1           Another major objective of the EM&V contractor is to develop a TRM. The  
2           TRM contains existing deemed savings measures, standard EM&V protocols, and  
3           work papers used to develop the TRM. The TRM is available to the public and can  
4           be found on the PUCT Interchange under Project No. 38578.

5           The contractor's evaluation of ETI's 2019 programs has been completed  
6           and is included in my workpapers. ETI's 2019 programs were all determined to be  
7           cost effective, with the average cost effectiveness rate of 3.64, as shown in Exhibit  
8           JKC-9.

9  
10       Q34.   WHAT ARE ETI'S EM&V COSTS AND HOW WERE THE EM&V COSTS  
11           ALLOCATED TO THE RATE CLASSES?

12       A.     Tetra Tech, the EM&V contractor for 2019, bills ETI monthly for ETI's portion of  
13           the statewide EM&V program. ETI's costs in 2019 for the EM&V contractor's  
14           review of ETI's 2018 energy efficiency programs totaled \$104,402 as shown in  
15           Exhibit JKC-6 and Table 10 of Exhibit JKC-1.

16           Although a contractor has not yet been selected for 2021, consistent with  
17           guidance from Commission Staff, ETI is using the actual total EM&V costs for  
18           review of the 2018 energy efficiency program year, which were incurred in calendar  
19           year 2019, as an estimate of the total EM&V expense for 2021 program year. ETI  
20           notes that actual 2021 program year expenses may differ from those incurred in  
21           2019 for review of the 2018 program year expenses.

22           EM&V costs were allocated to the utilities and the utilities' various  
23           programs per the methodology recommended by the state EM&V evaluation



1 team. The Company then allocated the costs to the rate classes that received  
2 services under each program, as needed, using the rate classes' percentage of  
3 program incentive costs. The allocations to programs are shown in Tables 6 and  
4 10 of my Exhibit JKC-1. The allocations to rate classes are shown in my Exhibit  
5 JKC-7 (for the projected EM&V costs) and Ms. Landry's Exhibit JCL-1, page 5  
6 (for the historical EM&V costs).

7  
8 E. 2019 EECRF Proceeding Costs

9 Q35. DOES THE COMPANY'S REQUESTED EECRF FOR 2021 INCLUDE COSTS  
10 FOR AN EECRF PROCEEDING CONDUCTED PURSUANT TO 16 TAC  
11 § 25.181(F)?

12 A. Yes. Pursuant to 16 TAC § 25.182(d)(3), the Company's requested EECRF for  
13 2021 includes costs for last year's EECRF proceeding, Docket No. 49493.

14  
15 Q36. WHAT COSTS FOR LAST YEAR'S EECRF PROCEEDING ARE INCLUDED  
16 IN THE COMPANY'S REQUEST?

17 A. ETI's proceeding costs for last year's EECRF were \$42,501. The Cities' costs for  
18 last year's proceeding were \$12,862. The reasonableness of ETI's EECRF  
19 proceeding costs that are charges from its service company affiliate (Entergy  
20 Services, LLC) is supported by the direct testimony of Company witness Landry.  
21 The reasonableness of ETI's non-affiliate charges for last year's EECRF  
22 proceeding is supported by the affidavit of Wajiha Rizvi (Senior Counsel with  
23 Entergy Services, LLC), which is included with the Company's application. The

4

## 5

8

10

13

15

18

19

## 20

22

23

1 Q40. WERE THE COSTS IDENTIFIED IN TABLE 10 OF EXHIBIT JKC-1  
2 REASONABLE AND NECESSARY TO ACHIEVE THE COMPANY'S GOALS  
3 TO REDUCE DEMAND AND ENERGY GROWTH?

4 A. Yes, the costs incurred were reasonable and necessary to achieve the prescribed  
5 goals to reduce demand and energy growth. The reduction goals and projected  
6 costs were approved by the Commission. The Company's processes and  
7 procedures helped to ensure that the costs to achieve the goals were reasonable and  
8 necessary. The Company's testimony in this proceeding provides details about the  
9 Company's programs and costs for 2019 and includes a copy of the Company's  
10 EEPR as well.

11 Moreover, the program costs met the cost effectiveness standard definition  
12 in 16 TAC § 25.181(d), which states "an energy efficiency rule is deemed to be  
13 costs effective if the cost of the program to the utility is less than or equal to the  
14 benefits of the program." The cost effectiveness calculations for the 2019 programs  
15 are presented in Exhibit JKC-9. Because all of ETI's programs costs are less than  
16 or equal to the benefits of the programs, they are deemed to be cost effective.

17

18 Q41. DID THE COSTS INCURRED IN 2019 COMPLY WITH SECTION (D) OF  
19 COMMISSION RULE 25.182?

20 A. Yes. The costs incurred in 2019 were reasonable costs of providing a portfolio of  
21 cost-effective energy efficiency programs that comply with section (d) of Rule  
22 25.182, including the cost caps of Rule 25.182(d)(7).

1 Q42. DID ANY OF THE ACTUAL 2019 PROGRAM COSTS VARY BY MORE  
2 THAN TEN PERCENT FROM THE PROJECTED PROGRAM COSTS?

3 A. Yes. There was one program where the projected budget and actual total funds  
4 expended varied by more than ten percent, with the program coming in below the  
5 budgeted amount: Load Management SOP (38%).

6 Costs under the Load Management SOP were lower than projected due to  
7 several factors: First, one customer that owns multiple store locations did not earn  
8 the expected level of incentive payments because they did not aggressively curtail  
9 their HVAC total load when called upon but rather achieved their load reduction  
10 by raising and lowering the thermostats' temperatures in the stores by just a few  
11 degrees. Second, a customer with a main pumping station was not able to participate  
12 in the initial testing due to meter issues and was therefore dropped from the program  
13 for 2019. Upon further investigation it was determined the Integrated Data  
14 Responder (IDR) device was faulty, and it was replaced as well, so the customer  
15 should have the opportunity to participate in the future.

16

17 Q43. WHAT PROCESSES DID ETI HAVE IN PLACE TO ENSURE THE  
18 REASONABLENESS OF COSTS?

19 A. ETI regularly monitored market conditions to ensure the reasonableness of its  
20 program offerings and costs. The Company also regularly participates in baseline  
21 studies. These studies look for trends in specific market sectors and show where  
22 there are weaknesses in adapting to the new International Energy Conservation  
23 Code or lagging behind as compared to other regions of Texas. Programs can then

1           be developed to address the lack of adaptation. For example, a new baseline study  
2           was completed in 2015 showing current residential new construction habits and has  
3           been vetted by the EM&V contractor for inclusion in the TRM.

4                     In addition, ETI has used Requests for Proposals (“RFPs”) for its programs  
5           to make sure it is achieving the best program delivery and a reasonable price for  
6           Program Implementers. ETI plans to continue using RFPs as a check on its  
7           programs and programs costs, and, for example, recently completed RFPs for its  
8           2020 MTPs.

9  
10    Q44.   WHAT PROCESSES DID ETI HAVE IN PLACE TO MONITOR THE COSTS?

11    A.     ETI regularly monitored costs through monthly Program Implementer invoices and  
12           reports. ETI monitors its internal costs through a budgeting system. Monthly  
13           meetings are held with the Energy Efficiency team and a departmental analyst to  
14           discuss current expenditures as well as planned expenditures for the current year  
15           such as special promotions or trade show participation.

16  
17    Q45.   HAS ETI IMPROVED ITS PROCESSES OVER THE YEARS BASED ON ITS  
18           EXPERIENCE WITH PROCURING ENERGY EFFICIENCY SERVICES?

19    A.     Yes. ETI has continued to adjust and modify its budgeting and accounting  
20           processes to meet the needs of the Energy Efficiency team and the requests raised  
21           in EECRF proceedings. ETI now tracks costs by rate class rather than customer  
22           class. In addition, ETI developed a communications plan and calendar to help track  
23           the cost of its promotional activities, and it recently updated the communications

1 plan to include web-based promotions of program builders and contractors. Process  
2 improvements such as these helped to continue to ensure the reasonableness of the  
3 2019 programs, as well as future years' programs.

5 Q46. HAS THE COMPANY'S EXPERIENCE ALSO HELPED TO ENSURE THAT  
6 COSTS RECOVERED THROUGH THE EECRF HAVE BEEN REASONABLE?

7     A.     Yes. ETI manages its program costs based on over 16 years of knowledge and  
8           experience within the Texas market and the surrounding service territories. The  
9           program costs and incentives offered for 2019 were consistent with the offering of  
10          similar programs of other utilities and were necessary to encourage participation  
11          levels high enough to achieve the energy and demand goals set up by the PUCT at  
12          reasonable costs.

14 VII. CONCLUSION

15 Q47. DO YOU BELIEVE THE COSTS THAT ETI SEEKS TO INCLUDE IN ITS  
16 EECRF FOR 2021 INCLUDE REASONABLE ACTUAL AND ESTIMATED  
17 COSTS NECESSARY TO PROVIDE ENERGY EFFICIENCY PROGRAMS  
18 AND TO MEET THE UTILITY'S GOALS UNDER THIS SECTION?

19 A. Yes. The program costs associated with providing a quality energy efficiency  
20 program under ETI's request are reasonable and necessary and meet the cost  
21 effectiveness provisions found in the energy efficiency rule.



1 Q48. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

2 A. Yes, at this time.



DOCKET NO. \_\_\_\_\_

APPLICATION OF ENTERGY	§	PUBLIC UTILITY COMMISSION
TEXAS, INC. TO ADJUST ITS	§	
ENERGY EFFICIENCY COST	§	OF TEXAS
RECOVERY FACTOR	§	

DIRECT TESTIMONY

OF

JESSICA C. LANDRY

ON BEHALF OF

ENTERGY TEXAS, INC.

MAY 1, 2020

ENTERGY TEXAS, INC.  
DIRECT TESTIMONY OF JESSICA C. LANDRY  
2020 EECRF APPLICATION

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION AND PURPOSE .....	1
II. EECRF FOR 2021 .....	2
III. RIDER EECRF CALCULATION.....	5
IV. AFFILIATE ENERGY EFFICIENCY EXPENSES .....	9

EXHIBITS

Exhibit JCL-1	Calculations for 2021 EECRF
Exhibit JCL-2	Revised Rider Schedule EECRF
Exhibit JCL-3	Calculation of Costs Recoverable through 2021 EECRF
Exhibit JCL-4	2019 EECRF Revenues
Exhibit JCL-5	2019 Affiliate Costs by Account and by Class

1 I. INTRODUCTION AND PURPOSE

2 Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND OCCUPATION.

3 A. My name is Jessica C. Landry. My business address is 639 Loyola Avenue, New  
4 Orleans, Louisiana 70113. I am employed by Entergy Services, LLC, (“ESL”), the  
5 service company affiliate of Entergy Texas, Inc. (“ETI” or the “Company”) as  
6 Regulatory Project Coordinator in the Fuel & Special Riders Department.

7

8 Q2. ON WHOSE BEHALF ARE YOU SUBMITTING THIS DIRECT TESTIMONY?

9 A. I am submitting this direct testimony to the Public Utility Commission of Texas  
10 (“Commission”) on behalf of ETI.

11

12 Q3. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.

13 A. I have a Bachelor of Science degree in Finance from Louisiana State University  
14 and a Master of Science degree in Accounting from the University of Virginia. I  
15 am a Certified Public Accountant licensed in the State of Louisiana.

16

17 Q4. PLEASE DESCRIBE BRIEFLY YOUR PROFESSIONAL EXPERIENCE.

18 A. I have been employed by ESL for approximately 9 years and have been an analyst  
19 in the Fuel and Special Riders group since July 2015. Prior to my current position,  
20 I worked in the Accounting organization in the Fuel Accounting department for  
21 approximately 4 years. Prior to working for Entergy, I was employed by Ernst &  
22 Young in McLean, VA as part of the Assurance Practice for 2 years.

1 Q5. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE COMMISSION?

2 A. Yes. I provided testimony before the PUCT in Docket Nos. 49493 and 48333.

3

4 Q6. WAS THIS TESTIMONY PREPARED BY YOU OR UNDER YOUR DIRECT  
5 SUPERVISION?

6 A. Yes.

7

8 Q7. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

9 A. My direct testimony presents the calculation of the proposed rates for the  
10 Company's 2021 Energy Efficiency Cost Recovery Factor ("EECRF") tariff  
11 ("Rider EECRF"). Attached as my Exhibit JCL-1 is the calculation of the proposed  
12 Rider EECRF rates for 2021. Exhibit JCL-2 is the revised Rider EECRF tariff rate  
13 schedule for 2021. My direct testimony also supports the Company's request to  
14 recover energy efficiency affiliate expenses associated with Project Code  
15 F3PPEECRF3. I provide the levels of these expenses for calendar year 2019 and  
16 address the reasonableness of the expenses.

17

18 II. EECRF FOR 2021

19 Q8. DOES ETI CURRENTLY HAVE AN EECRF IN PLACE?

20 A. Yes. ETI's current EECRF was approved in Docket No. 49493<sup>1</sup> to recover  
21 \$8,010,785. This amount included: (a) estimated 2020 energy efficiency program

---

<sup>1</sup> *Application of Entergy Texas, Inc. to Adjust its Energy Efficiency Cost Recovery Factor*, Docket No. 49493, Final Order (Nov. 21, 2019).

1 costs of \$7,508,671; (b) a performance bonus of \$1,673,207 for 2018 program  
2 achievements; (c) evaluation, monitoring, and verification (“EM&V”) costs of  
3 \$106,180 to be collected in 2020; (d) a \$1,386,610 adjustment for the over-recovery  
4 of 2018 program costs, including \$37,935 in interest; and (e) \$11,273 for Cities’  
5 rate case expenses and \$98,064 for ETI’s rate case expenses in Docket No. 48333.  
6 ETI began collecting revenues under the current tariff with the first billing cycle of  
7 the January 2020 billing month.

8

9 Q9. IS ETI ASKING FOR AN ADJUSTMENT TO ITS CURRENT EECRF?

10 A. Yes. ETI is requesting that the 2021 EECRF be set to recover \$9,440,761. The  
11 calculation for the new EECRF is shown in Exhibit JCL-1.

12

13 Q10. PLEASE DETAIL THE COSTS THAT THE COMPANY IS SEEKING TO  
14 RECOVER UNDER ITS REDETERMINED EECRF.

15 A. As further detailed below, ETI seeks to recover \$9,440,761 in its 2021 EECRF,  
16 which is comprised of five parts: (a) estimated 2021 energy efficiency program  
17 costs of the Company’s forecasted energy efficiency program budget amount of  
18 \$7,608,671; (b) a performance bonus of \$2,404,038 for 2019 program  
19 achievements; (c) EM&V costs of \$104,402 to be collected in 2021; (d) a \$731,714  
20 refund for the over-recovery of 2019 program costs, including \$28,423 in interest;  
21 and (e) \$12,862 for Cities’ rate case expenses and \$42,501 for ETI’s rate case  
22 expenses in Docket No. 49493. The cost components for the 2021 EECRF are  
23 shown in Exhibit JCL-3.

1           In particular, Table 6 of Mr. Carson's Exhibit JKC-1 shows the projected  
2           costs the Company expects to incur to achieve the savings goals required for 2021.  
3           The forecast is for \$7,713,074 in 2021. This total is comprised of \$6,710,686 for  
4           incentive costs, \$897,985 for administrative costs (including R&D), and \$104,402  
5           for EM&V costs.

6           Further, 16 Texas Administrative Code ("TAC") § 25.182 allows ETI to  
7           collect a performance bonus for efficiently and effectively managing its energy  
8           efficiency programs during 2019. The requirements for collecting a performance  
9           bonus are set forth in 16 TAC § 25.182(e). The requested bonus is calculated to be  
10          \$2,404,038 as presented in Mr. Carson's Exhibit JKC-8.

11          Next, the Company's costs recoverable through the 2019 EECRF were  
12          \$9,091,324. ETI's 2019 EECRF revenues totaled \$9,823,038. My Exhibit JCL-4  
13          shows the Company's monthly revenues recorded under the 2019 EECRF rates.  
14          The difference in actual EECRF revenues and actual costs resulted in an over-  
15          recovery of \$731,714 including \$28,423 in interest. This calculation is also shown  
16          in Exhibit JCL-3.

17          Finally, the Company is seeking to recover \$55,363 in rate case expenses  
18          related to last year's EECRF proceeding, Docket No. 49493. These costs include  
19          \$42,501 for ETI's costs and \$12,862 for the Cities' costs as shown in Table 10 of  
20          Exhibit JKC-1 and Exhibit JCL-3.

## 1

2

4

9

11

- 13

1                   and opt-out industrial distribution level customers,<sup>2</sup> for the twelve-month  
2                   period beginning January 2021 through December 2021.

3           Company witness John K. Carson explains in his direct testimony the derivation of  
4           the cost components of the new rates.

5

6   Q13.   PLEASE EXPLAIN HOW THE COMPANY'S PROJECTED ENERGY  
7           EFFICIENCY COSTS FOR 2021 ARE ALLOCATED TO THE RATE CLASSES.

8   A.     Mr. Carson provides the projected energy efficiency costs for 2021 by rate class, as  
9           shown in his Exhibit JKC-7 and my Exhibit JCL-1, page 2 of 6.

10

11   Q14.   HOW WAS THE COMPANY'S 2019 PERFORMANCE BONUS ALLOCATED  
12           TO THE RATE CLASSES?

13   A.     In light of 16 TAC § 25.182(e)(6), the Performance Bonus amount provided by Mr.  
14           Carson was allocated to each rate class in proportion to the program costs directly  
15           assigned to each rate class, which excludes the LIPS transmission level and  
16           Lighting rate classes. Please refer to my Exhibit JCL-1, page 3 for this allocation.

17

18   Q15.   WHAT METHODOLOGY WAS USED TO ALLOCATE THE TRUE-UP  
19           ADJUSTMENT TO THE RATE CLASSES?

20   A.     The actual 2019 energy efficiency program costs were allocated to the appropriate  
21           rate class based on Table 10 in Exhibit JKC-1 (the 2020 Energy Efficiency Plan

---

<sup>2</sup>   See 16 TAC § 25.181(u).



1           and Report) and Exhibit JKC-5. As Mr. Carson explains in his direct testimony,  
2           the program costs were directly assigned to each rate class to the maximum extent  
3           reasonably possible. Those costs that could not be directly assigned to rate classes  
4           were allocated in proportion to the program costs directly assigned to the rate  
5           classes receiving services from the programs, which excludes the LIPS industrial  
6           transmission level and Lighting rate classes. The 2017 performance bonus included  
7           in the 2019 billed EECRF revenues was allocated in proportion to the program costs  
8           allocated to each rate class.

9           The 2017 performance bonus and the 2017 true-up adjustment were then  
10          removed from the 2019 EECRF revenues. The actual 2019 program costs as well  
11          as the 2017 proceeding costs, both separated by rate class, were then compared to  
12          the adjusted revenues recovered from each rate class through the Company's 2019  
13          Rider EECRF in order to calculate the over/under recovery of the 2019 program  
14          costs. Additionally, interest for 2019 and 2020 was calculated by rate class and  
15          compounded annually using the annual rates authorized by the Commission. My  
16          Exhibit JCL-1, page 4 shows the calculation of the true-up adjustment.

17  
18   Q16.   HOW WERE THE RIDER EECRF RATES FOR 2021 CALCULATED?

19   A.     Exhibit JCL-1, page 1 shows the calculation of the Rider EECRF rates for 2021.  
20          The 2021 projected energy efficiency costs, the 2019 performance bonus, and the  
21          true-up adjustment previously discussed were added together to obtain the total  
22          energy efficiency costs by rate class to be collected in 2021. The costs by rate class  
23          were then divided by the forecasted billing determinants for each rate class

1           excluding LIPS industrial transmission level and opt-out customers for the twelve-  
2           month period beginning January 2021 through December 2021 to determine the  
3           EECRF rates by rate class.

4

5   Q17.   HOW WERE THE RIDER EECRF RATES FOR 2021 CALCULATED FOR  
6           COMPARISON TO THE COST CAP?

7   A.     The total energy efficiency costs by rate class were adjusted to exclude the EM&V  
8           costs and Cities' EECRF proceeding costs to determine the EECRF costs subject  
9           to the caps defined in 16 TAC § 25.182(d)(7). Exhibit JCL-1, page 1 shows the  
10          EECRF costs subject to the caps.

11

12   Q18.   DO THE RIDER EECRF RATES FOR 2021 MEET THE COST CAP  
13          REQUIREMENTS PER THE COMMISSION RULES?

14   A.     Yes, the Company's proposed rates are under the established cost cap requirements  
15          as reflected in Exhibit JCL-1, page 1.

16

17   Q19.   HOW WERE THE COMPANY'S FORECASTED BILLING DETERMINANTS  
18          DEVELOPED FOR 2021?

19   A.     The forecast billing determinants were produced by the Company's forecast model  
20          at the rate class level. The forecasted billing determinants exclude LIPS industrial  
21          transmission level and opt-out customers. Exhibit JCL-1, page 6, provides the  
22          forecasted billing determinants.

1 Q20. WERE ANY CALCULATIONS OR ESTIMATES OF SYSTEM LOSSES AND  
2 LINE LOSSES USED TO CALCULATE THE EECRF RATES?

3 A. No. The forecasted 2021 billing determinants were “at the meter” billing  
4 determinants; therefore, no line loss calculations are needed.  
5

6 Q21. ARE YOU SPONSORING AN UPDATED RIDER EECRF?

7 A. Yes. The updated Rider EECRF tariff is attached to this testimony as Exhibit JCL-  
8 2.  
9

10 Q22. HAVE YOU MADE A DETERMINATION OF THE IMPACT OF THE  
11 REQUESTED EECRF RATES ON RESIDENTIAL CUSTOMERS?

12 A. Yes. I have determined the impact for a residential customer, assuming a monthly  
13 usage of 1,000 kWh. The requested EECRF rates as calculated in Exhibit JCL-1  
14 would result in a \$0.14 per month increase to a residential customer’s bill. This  
15 would be a 0.12% increase from such customers’ bills based on EECRF charges  
16 currently approved by the Commission.  
17

18 IV. AFFILIATE ENERGY EFFICIENCY EXPENSES

19 Q23. WHAT DOES THIS PORTION OF YOUR TESTIMONY ADDRESS?

20 A. This portion of my testimony addresses costs charged to ETI from ESL under  
21 Project Code F3PPEECRF3 (the “Affiliate Energy Efficiency Expenses”).

1 Q24. WHAT ARE THE AFFILIATE ENERGY EFFICIENCY EXPENSES PER  
2 PROJECT CODE FOR WHICH ETI SEEKS RECOVERY?

3 A. The affiliate charges per project code for which ETI seeks recovery are the  
4 following:

5 F3PPEECRF3: \$20,439.37  
6

7 Q25. PLEASE DESCRIBE PROJECT CODE F3PPEECRF3.

8 A. The overall purpose of this project is to capture and manage costs associated with  
9 services provided in the preparation, production, and litigation of the EECRF filing.  
10 The primary activities associated with this project code are preparation of the ETI  
11 application and testimony; preparation of all legal pleadings required as part of the  
12 litigation of the case; review of opposing party filings; development of ETI  
13 strategy; management and oversight of consultants and attorneys; and responses to  
14 discovery. Personnel charging to this project code include ESL attorneys and ESL  
15 regulatory services personnel who help prepare the exhibits and rate schedules  
16 necessary for the EECRF application.  
17

18 Q26. HOW WERE THE PROJECT CODE F3PPEECRF3 COSTS ALLOCATED  
19 AMONG THE VARIOUS ENTERGY OPERATING COMPANIES?

20 A. The costs are driven by the activities necessary for the preparation, production and  
21 litigation of ETI's EECRF filing. All services charged to this project code relate to  
22 and are caused exclusively by ETI, and therefore, are appropriately charged 100%  
23 to ETI, under billing method DIRECTTX.

1 Q27. WHAT WAS THE TOTAL LEVEL OF COSTS ESL CHARGED TO ETI IN 2019  
2 FOR PROJECT CODE F3PPEECRF3?

3 A. The total amount charged by ESL to ETI for calendar year 2019 was \$25,406. After  
4 exclusions and adjustments (such as for depreciation and financially based  
5 incentive compensation), the remaining charges total \$20,439. The total charges to  
6 ETI by FERC Account and by affiliate class of charges are shown in my Exhibit  
7 JCL-5.

8

9 Q28. WHAT AMOUNT DOES THE COMPANY PROPOSE BE FOUND  
10 REASONABLE AND RECOVERABLE FOR ITS 2019 PROJECT CODE  
11 F3PPEECRF3 AFFILIATE COSTS IN THIS CASE?

12 A. The Company proposes that the adjusted charges of \$20,439 be found reasonable  
13 and recoverable through the 2021 EECRF.

14

15 Q29. IS THE COMPANY PRESENTING INFORMATION CONSISTENT WITH THE  
16 FACTORS LISTED IN 16 TAC § 25.245(B) TO SUPPORT ITS RATE CASE  
17 EXPENSES FOR LAST YEAR'S EECRF PROCEEDING?

18 A. Yes. ETI is providing information consistent with the factors listed in 16 TAC  
19 § 25.245(b) to the extent available. The affidavit of ESL Senior Counsel, Wajiha  
20 Rizvi, details much of this information, including a discussion of the scope and  
21 complexity of the case, which is applicable to the affiliate rate case expenses as  
22 well. Similar to the activities her affidavit describes, the work done by ESL

1 personnel included preparing the testimony and exhibits, responding to discovery  
2 as well as providing subject matter expertise on the issues addressed in the case.

3 Additionally, ESL personnel charged no lodging, meals, beverages, or  
4 transportation to ETI for last year's EECRF proceeding. For ESL costs, ETI  
5 estimates that the charges per issue were as follows: preparation of the Energy  
6 Efficiency Plan & Report (\$4,435); preparation of the EECRF application and  
7 direct testimony (\$7,624); rate case expense issues (\$2,882); work on issues  
8 regarding opt-out customer data (\$634); responding to discovery (\$3,045);  
9 miscellaneous procedural matters and expenses such as the procedural schedule,  
10 list of issues, and case status discussions (\$307); and settlement-related activities  
11 including settlement discussions, settlement documents preparation, and activities  
12 related to seeking approval of the settlement and final order by the Commission  
13 (\$1,513). As noted above, after exclusions and adjustments (for depreciation and  
14 financially based incentive compensation), the remaining charges total \$20,439.  
15 The use of external and ESL employees was monitored to ensure there was no  
16 duplication of services.

17

18 Q30. HAVE YOU REVIEWED THE REQUESTED AFFILIATE ENERGY  
19 EFFICIENCY EXPENSES TO DETERMINE WHETHER SUCH EXPENSES  
20 ARE REASONABLE AND NECESSARY?

21 A. Yes.

1 Q31. HOW DID YOU DETERMINE WHETHER THE AFFILIATE ENERGY  
2 EFFICIENCY EXPENSES PRESENTED WERE REASONABLE AND  
3 NECESSARY?

4 A. I examined the affiliate costs in light of the information presented by ETI in its  
5 recent rate case to ensure that such costs are reasonable and necessary. In particular,  
6 the process through which project code charges are billed to affiliates was explained  
7 in Company witness Barbara Heard's direct testimony in Docket No. 48371, ETI's  
8 2018 rate case. In addition, the Company's affiliate class witnesses from Docket  
9 No. 48371, including those who address the ETI direct charges, explained how the  
10 budgeting and cost control processes work within their business units. For  
11 example, timesheet and expense reports are reviewed by supervisors to ensure  
12 accuracy. Also, Company witness Jennifer A. Raeder in Docket No. 48371  
13 supported the reasonableness and necessity of the compensation and benefits paid  
14 to ESL employees.

15 In Docket No. 48371, Company witnesses presented direct testimony  
16 regarding the various classes of affiliate costs that ETI received from ESL, and  
17 Exhibit JCL-5 shows the ESL project code charges to ETI by affiliate class. For  
18 example, a portion of the costs in Project Code F3PPEECRF3 was incurred by the  
19 Legal Services class of affiliate costs. Company witness Dan Falstad presented  
20 testimony in Docket No. 48371 supporting the reasonableness and necessity of the  
21 charges to ETI from the Legal Services class. The processes and practices  
22 described in the Company's direct testimony in Docket No. 48371 regarding  
23 billing, budgeting, cost control, compensation, and benefits remain in effect today.

1           These processes and practices help to ensure that the requested Project Code  
2           expenses are necessary and reasonable, represent the actual costs of the services,  
3           do not include prohibited expenses, do not include charges for duplicative services  
4           or expenses, and are no higher than the prices charged to other affiliates, or to non-  
5           affiliates, for the same or similar classes of items. Moreover, these processes and  
6           practices were used in prior ETI EECRF cases to support similar expenses.<sup>3</sup>

7

8   Q32.   WHAT DO YOU CONCLUDE WITH RESPECT TO THE REASONABLENESS  
9           AND NECESSITY OF THE AFFILIATE ENERGY EFFICIENCY EXPENSES?

10   A.     Based on my review and analysis, as described above, the Company's Affiliate  
11           Energy Efficiency Expenses are reasonable and necessary, represent the actual  
12           costs of the services, do not include prohibited expenses, do not include charges for  
13           duplicative services or expenses, and are no higher than the prices charged to other  
14           affiliates, or to non-affiliates, for the same or similar classes of items.

15

16   Q33.   DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

17   A.     Yes.

---

<sup>3</sup> *Application of Entergy Texas, Inc. to Adjust its Energy Efficiency Cost Recovery Factor*, Docket No. 49493, Final Order (Nov. 21, 2019); *Application of Entergy Texas, Inc. to Adjust its Energy Efficiency Cost Recovery Factor*, Docket No. 48333, Final Order (Dec. 10, 2018); *Application of Entergy Texas, Inc. for Authority to Determine Rates for Energy Efficiency Cost Recovery Factor*, Docket No. 47115, Final Order (Sept. 29, 2017); Docket No. 45915, *Application of Entergy Texas Inc. for Authority to Redetermine Rates for the Energy Efficiency Cost Recovery Factor*, Final Order (Sept. 28, 2016); Docket No. 44696, *Application of Entergy Texas Inc. for Authority to Redetermine Rates for the Energy Efficiency Cost Recovery Factor*, Final Order (Sept. 25, 2015); and Docket No. 42485 *Application of Entergy Texas, Inc. for Authority to Redetermine Rates for Energy Efficiency Cost Recovery Factor*, Final Order (Nov. 21, 2014).



**AFFIDAVIT OF WAJIHA RIZVI**

STATE OF TEXAS

2

COUNTY OF TRAVIS

*S*

202

BEFORE ME, the undersigned authority, on this day personally appeared WAJIHA RIZVI, who being by me first duly sworn, on oath, deposed and said the following:

1. “My name is Wajiha Rizvi, and I am an attorney licensed by the State Bar of Texas. I have practiced in the area of utility law since 2011. I am employed by Entergy Services, LLC (“ESL”) as Senior Counsel. I am filing this affidavit on behalf of Entergy Texas, Inc. (“ETI” or “the Company”). I am over the age of 18 years and of sound mind. My statements in this affidavit are based upon personal knowledge and are true and correct.
2. ETI is requesting recovery of 2019 Energy Efficiency Cost Recovery Factor (“EECRF”) proceeding expenses incurred by itself and the Cities.<sup>1</sup> The 2019 EECRF proceeding, Docket No. 49493, was filed by ETI on May 1, 2019 and was the proceeding in which ETI’s EECRF for 2020 was established. A final order was issued in Docket No. 49493 on November 21, 2019.
3. I support the rate case expenses incurred by ETI for external legal counsel, copying and production services, and courier service. Company witness Jessica Landry supports the rate case expenses of \$20,439 incurred by ETI for affiliate legal counsel and regulatory personnel support from ESL. The Affidavit of Mr. Dan Lawton supports the reasonableness of the Cities’ expenses.

Provided as my Attachment 1 to this affidavit are invoices and supporting documentation for the external rate case expenses I support. Included in these expenses are \$21,663 for ETI's outside counsel expenses from Duggins Wren Mann & Romero, LLP ("DWMR"). Also included in ETI's requested rate case expenses for Docket No. 48333 are expenses in the amount of \$399 for Magic Couriers for delivery charges for the filing pleadings, discovery responses, and service to parties.

<sup>1</sup> The Cities include the cities of Anahuac, Beaumont, Bridge City, Cleveland, Conroe, Dayton, Groves, Houston, Huntsville, Liberty, Montgomery, Navasota, Nederland, Oak Ridge North, Orange, Pine Forest, Pinehurst, Port Arthur, Port Neches, Rose City, Shenandoah, Silsbee, Sour Lake, Splendora, Vidor, and West Orange.

4. The requested total 2019 EECRF proceeding expenses for ETI (including affiliate charges) of \$42,501 was less than the average ETI EECRF proceeding costs over the past five years which included approved rate case expenses totaling \$98,064 for Docket No. 48333 (as approved in 49493); \$58,404 for Docket No. 47115 (as approved in Docket No. 48333); \$53,482 for Docket No. 45915 (as approved in Docket No. 47115); \$86,379 for Docket No. 44696 (as approved in Docket No. 45915); and \$265,454 for Docket No. 42485 (as approved in Docket No. 44696).
5. I have reviewed the rate case expenses incurred by ETI in Docket No. 49493, and I affirm that they are reasonable and necessary. In my review and analysis, per 16 TAC § 25.245(b), I considered:
  - a. the nature, extent, and difficulty of the work done by the attorney or other professional in the rate case;
  - b. the time and labor required and expended by the attorney or other professional;
  - c. the fees or other consideration paid to the attorney or other professional for the services rendered;
  - d. the expenses incurred for lodging, meals and beverages, transportation, or other services or materials;
  - e. the nature and scope of the rate case, including:
    - i. the size of the utility and number and type of consumers served;
    - ii. the amount of money or value of property or interest at stake;
    - iii. the novelty or complexity of the issues addressed;
    - iv. the amount and complexity of discovery;
    - v. the occurrence and length of a hearing; and
  - f. the specific issue or issues in the rate case and the amount of rate-case expenses reasonably associated with each issue.
6. I also considered the factors that, under 16 TAC § 25.245(c), the presiding officer is directed to address; namely, whether and the extent to which the evidence shows that:
  - a. the fees paid to, tasks performed by, or time spent on a task by an attorney or other professional were extreme or excessive;
  - b. the expenses incurred for lodging, meals and beverages, transportation, or other services or materials were extreme or excessive;
  - c. there was duplication of services or testimony;
  - d. the utility's or municipality's proposal on an issue in the rate case had no reasonable basis in law, policy, or fact and was not warranted by any reasonable argument for the extension, modification, or reversal of commission precedent;
  - e. rate-case expenses as a whole were disproportionate, excessive, or unwarranted in relation to the nature and scope of the rate case addressed by the evidence pursuant to subsection (b)(5) of this section; or
  - f. the utility or municipality failed to comply with the requirements for providing sufficient information pursuant to subsection (b) of this section.

7. ETI provides service to approximately 450,000 retail customers in 68 cities and 27 counties across 15,320 square miles throughout southeast Texas. ETI owns approximately 2,747 miles of transmission lines, 13,194 miles of distribution lines, and multiple generating plants. In addition, ETI obtains a significant amount of services from Entergy Services, LLC, its service company affiliate. ETI's last approved annual non-fuel revenue requirement was \$962,538,565. Accordingly, ETI is a substantial and complex utility.
8. ETI's application in Docket No. 49493, requested that the EECRF for 2020 collect a total of \$8,010,790. Ultimately, the Commission approved a unanimous stipulation approving recovery of 8,010,785. Given the amount at risk, it was reasonable for ETI to engage outside counsel with the necessary experience and capacity to prosecute Docket No. 49493.
9. DWMR assumed extensive responsibilities related to nearly all aspects of Docket No. 49493. The expenses charged by DWMR were reasonable and necessary to assist ETI in preparing and prosecuting Docket No. 49493, including the initial filing, direct testimony, responding to discovery, assisting with case strategy and prosecution, and assisting with documenting the eventual settlement of the case. The energy efficiency-related issues addressed in that proceeding required extensive subject matter expertise not possessed by many attorneys. DWMR had the experience and subject matter expertise required to efficiently prepare and prosecute Docket No. 49493.
10. The time required to prepare and prosecute an EECRF proceeding at the PUCT depends on the particular facts and circumstances of the case, including the extent to which parties contest specific issues. Evidence of the time and labor required and expended in connection with Docket No. 49493 case is contained in the DWMR invoices included in my Attachment 1.
11. Compensation to outside counsel is based on the hourly rates of the attorneys and paralegals and out-of-pocket expenses reimbursed without mark-up. The attorney fees charged were billed at \$335-420/hour. The majority of the charges incurred by ETI for Docket No. 49493 were for the services of DWMR attorney Mr. Everett Britt at a rate of \$355/hour. I compared these hourly billing rates to the hourly billing rates submitted by utilities and municipalities in Project No. 41622 (related to the Commission's Rate

- Case Expense Rule, 16 TAC § 25.245), reviewed past cases filed with the PUC for fees and tasks of outside counsel and consultants, and reviewed survey information regarding the hourly rates of Texas lawyers. Based on this review, I conclude that the hourly rates charged by DWMR are well within the reasonable range of rates charged by other firms.
12. Based on the reasonableness of DWMR's hourly rates, the necessity and quality of the services provided, and the lack of duplication of such services with those provided by internal counsel, the resulting total level of fees paid to DWMR in connection with Docket No. 49493 – \$22,062 – is also reasonable. Considering the EECRF revenue requirement amount requested, at stake, and ultimately approved (roughly \$8 million), I do not consider the total amount of fees paid to DWMR to be extreme or excessive.
  13. No lodging, transportation, or meals expenses were incurred by outside counsel for Docket No. 49493.
  14. The level of fees paid to DWMR is consistent with the novelty and complexity of the specific issues raised and contested in prior EECRF cases as well as Docket No. 49493.
  15. The level of fees paid to DWMR is also in line with the amount and complexity of discovery received from Staff in Docket No. 49493. In addition to responding to formal discovery, the Company also addressed issues raised informally by Staff.
  16. The level of fees paid to DWMR is consistent with ETI's need to be prepared to fully prosecute the case through hearing if needed as well as the fact that Docket No. 49493 settled prior to a hearing.
  17. DWMR costs associated with work on ETI's 2019 EECRF proceeding are itemized as follows: preparation of the Energy Efficiency Plan and Report (21.7%); preparation of the EECRF application and direct testimony (37.3%); rate case expense issues (14.1%); responding to discovery (14.9%); work on issues regarding opt-out customer data (3.1%); miscellaneous procedural matters such as the procedural schedule, list of issues, and case status discussions (1.5%); and settlement-related activities including settlement discussions, settlement documents preparation, and activities related to seeking approval of the settlement and final order by the Commission (7.4%).
  18. The provision of services in connection with Docket No. 49493 would have limited DWMR counsel's ability to accept and perform other work. Docket No. 49493 included

numerous hard filing deadlines and required many hours of attorney time that could not be committed to other work.

19. DWMR counsel brought value to Docket No. 49493 owing to the fact that the attorneys in the firm have represented the Company for many years and in numerous rate cases and other proceedings before the PUC. These attorneys' long-term relationship and knowledge of the Company's business and regulatory requirements enabled DWMR to capably and efficiently represent ETI in this matter. In particular, Mr. Britt has represented ETI in prior EECRF proceedings and is familiar with the Company's energy efficiency programs, goals, and revenue requirements.
20. DWMR has extensive experience representing utilities before the PUC and other regulatory agencies. The firm enjoys an excellent reputation in the area of utility regulation. Their lawyers have represented numerous utilities before the Commission for decades. I am personally familiar with the work and reputations of DWMR and the particular attorneys that provided services for Docket No. 49493. I am also personally familiar with the work and reputation of DWMR regarding its trial and appellate court practice involving appeals of administrative agency orders. The firm has a strong reputation in the area of administrative and utility practice as well.
21. The number of attorneys assigned to Docket No. 49493 was reasonable. ETI monitored the activities and charges of DWMR and its own attorneys and staff to ensure no duplication of effort.
22. Ultimately, in Docket No. 49493, the Commission approved recovery of \$8,010,785 through the Company's 2020 EECRF, which was nearly 100% of the amount requested. Thus, ETI derived significant value from the services rendered by its outside counsel and expert witness.
23. In my opinion, it was reasonable for ETI to engage DWMR to assist in the preparation and presentation of Docket No. 49493. Moreover, the rates of DWMR are very reasonable given the work performed, and the attorneys' training, education, and experience. For the reasons explained above, it should be determined that the fees paid to, tasks performed by, and time expended by DWMR were not extreme or excessive. As noted above, there were no charges for lodging, meals and beverages, or transportation or any duplication of effort. While ETI has broken out its expenses by

issue or activity type, in an effort to comply with Rule 25.245(b)(6), the Company did not take any positions lacking a reasonable basis in law, policy, or fact. Finally, as ETI's total rate case expenses comprise less than 1% of the EECRF amounts requested and approved, I conclude that such expenses were not disproportionate, excessive, or extreme in relation to the nature or scope of Docket No. 49493.

24. In light of all the preceding factors, I conclude the Company's requested level of rate case expenses for Docket No. 49493 is reasonable."

Wajiha Rizvi  
Wajiha Rizvi

Subscribed and sworn to before me today, April 30, 2020.

Cathy Treadaway  
Notary Public, in and for the State of Texas



PUCT DOCKET NO. \_\_\_\_\_

APPLICATION OF ENTERGY	§	BEFORE THE
TEXAS, INC. FOR AUTHORITY	§	PUBLIC UTILITY COMMISSION
TO REDETERMINE RATES FOR	§	OF TEXAS
ENERGY EFFICIENCY COST	§	
RECOVERY FACTOR	§	

**AFFIDAVIT OF DANIEL J. LAWTON**

I, Daniel J. Lawton, state the following facts under my oath.

1. My name is Daniel J. Lawton. I am over eighteen years of age and am not disqualified from making this affidavit.
2. I am giving this affidavit to support the reasonableness of Cities' rate case expenses in Application of Entergy Texas, Inc. For Authority to Redetermine Rates for Energy Efficiency Cost Recovery Factor; Docket No. 49493, filed with the Public Utility Commission of Texas in May 2019.
3. I am an attorney with The Lawton Law Firm P.C., 12600 Hill Country Blvd. Suite R-275, Austin Texas, 78738. The Lawton law Firm was retained by Cities in the Entergy Texas, Inc. service area to represent the interest of the customers located within the municipal boundaries of Cities in this proceeding.<sup>1</sup>
4. I address the reasonableness of actual fee related charges of the Lawton Law Firm in Docket No. 49493. Cities total rate case expenses for this matter total \$12,862. Attached hereto as Attachment 1 is a true and correct copy of the Lawton law Firm invoices for legal expenses incurred in Docket No. 49493. These invoices set out the time and a description of the task(s) performed spent working on the case.
5. As shown in Attachment 1 Mr. Lawton's billing rate is \$340.00 per hour. Ms. Molly Vandervoort billing rate is \$240. These are the normal billing rates charged for legal services. These billing rates are reasonable rates for an attorney providing these services before utility regulatory agencies in Texas. Part of the basis of my opinion is a review of the hourly rates charged by other attorneys to perform similar services.
6. The hourly rates charged by the firm are inclusive of ordinary out-of-pocket expenses. The Lawton Law Firm does not charge for normal copying, fax, deliveries, telephone or courier services. The Lawton Law Firm does charge for larger extraordinary expenses such as, expert costs, transcripts, and large copy jobs that are sent out for copying.
7. The total rate case expenses incurred by the Lawton Law Firm in Docket No. 49493 are shown in Table 1 below:

---

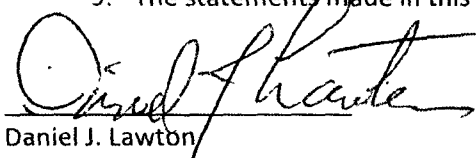
<sup>1</sup> Cities consist of the municipalities of Anahuac, Beaumont, Bridge City, Cleveland, Conroe, Dayton, Groves, Houston, Huntsville, Liberty, Montgomery, Navasota, Nederland, Oak Ridge North, Pine Forrest, Pinehurst, Port Arthur, Port Neches, Rose City, Shenandoah, Silsbee, Sour Lake, Splendora, Vidor, and West Orange ("Cities")

Table 1  
LAWTON LAW FIRM CHARGES  
MAY THROUGH JUNE 2019  
DOCKET NO. 49493

Attorney	Hours	Rate	Total Charge
Daniel Lawton	35.5 Hrs.	\$340.00	\$12,070.00
Molly Vandervoort	3.3 Hrs.	\$240.00	\$ 792.00
Total	38.8 Hrs.		\$12,862.00

Actual invoices including billing detail are included in Attachment 1. The time spent in this proceeding was for reviewing compliance with the Commission's Energy Efficiency Rule and requirements, work analyzing the case, ETI EECRF calculations (including bonus calculations), and concluding the case. Based on my experience I conclude that: (1) the hourly rates of the Lawton Law Firm are reasonable; (2) the actual hours billed for the required case tasks are reasonable and necessary; (3) the calculation of total charges is correct; (4) there is no double billing of charges, (5) none of the charges should have been assigned to other matters, (6) there was no occasion where an attorney billing exceeded 12 hours in a day; and (7) no expenses were billed and no luxury or personal items, such as first class travel, alcohol, valet parking, or meals in excess of \$25.00 were included in any invoice or charges.

8. I have concluded that the time spent by the Lawton Law Firm and total fees incurred by the Cities are reasonable relative to the efforts necessary to represent the Cities in ETI's Docket No. 49493 EECRF proceeding.
9. The statements made in this affidavit are true and correct.

  
Daniel J. Lawton

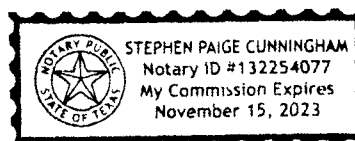
State of Texas

§

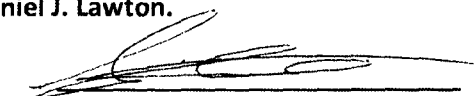
County of Travis

§

§



Subscribed and Sworn to before me the undersigned authority, on the 27 day of April 2020, by Daniel J. Lawton.

  
Notary Public, State of Texas  
My Commission Expires November 15, 2023



# THE LAWTON LAW FIRM, P.C.

12600 Hill Country Blvd., Suite R-275 • Austin, Texas 78738 • 512/322-0019 • Fax: 512/329-2604

## **June 2019 Invoice- PUC Docket No. 49493: Application of Entergy Texas, Inc. To Adjust Its Energy Efficiency Cost Recovery Factor**

Daniel Lawton	24.1 Hrs.	\$340.00	\$8,194.00
Molly Mayhall Vandevoort	3.3 Hrs	\$240.00	\$792.00
Total Fees			\$8,986.00
EXPENSES:			
Total Fees and Expenses			\$8,986.00

\* Please see attachment {Attachment Letter}

	THE LAWTON LAW FIRM, P.C.		
INVOICE FOR SERVICES FOR June 2019 Invoice- PUC Docket No. 49493; Application of Entergy Texas, Inc. To Adjust Its Energy Efficiency Cost Recovery Factor			
Daniel Lawton			
4/23/19		1.7 Hrs	Review Cities 2018 EECRF invoices, develop Declaration on rate case expenses develop attachments of expenses for Cities & consultant
5/2/19		4.6 Hrs	Review testimony & Application Schedules calculations Landry & Carson; summary of issues to review
5/8/19		3.5 Hrs	Pull historical EECRF program data set up model for analysis
5/9/19		4.0 Hrs	Continue analysis EECRF program data set up model for analysis
5/15/19		4.0 Hrs	Finalize historical analysis relative to current request summary of issues remaining
5/21/19		2.5 Hrs	Review filing & bonus calculation relative to last year's decision on bonus calculation
5/28/19		3.8 Hrs	Summary of case issues to discuss w/ Cities/ review preliminary order on EECRF issues
Total Hours		24.1 HRS.	

**INVOICE FOR SERVICES FOR June 2019 Invoice- PUC Docket No. 49493;  
Application of Entergy Texas, Inc. To Adjust Its Energy Efficiency Cost Recovery  
Factor**

5/1/19	0.8 Hrs	Review EECRF Application & Testimony
5/13/19	0.7 Hrs	Review EECRF Rule amendments
5/16/19	1.8 Hrs	Intervention & letter to Cities, Review EECRF Application & Testimony
Total	3.3 Hrs	

# THE LAWTON LAW FIRM, P.C.

12600 Hill Country Blvd., Suite R-275 • Austin, Texas 78738 • 512/322-0019 • Fax: 512/329-2604

**June 2019 Invoice- PUC Docket No. 49493; Application of Entergy Texas, Inc. To Adjust  
Its Energy Efficiency Cost Recovery Factor**

Daniel Lawton	11.4 Hrs	\$340.00	\$3,876.00
Molly Mayhall Vandervoort	Hrs	\$240.00	
Total Fees			\$3,876.00
EXPENSES:			
Total Fees and Expenses			\$3,876.00

\* Please see attachment (Attachment Letter)

**INVOICE FOR SERVICES FOR June 2019 Invoice- PUC Docket No. 49493:**  
**Application of Entergy Texas, Inc. To Adjust Its Energy Efficiency Cost Recovery**  
**Factor**

[illegible]