



OFFICE OF THE GOVERNOR

RICK PERRY
GOVERNOR

March 23, 2009

The Honorable Steven Chu
Secretary
U.S. Department of Energy (DOE)
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Secretary Chu:

Section 410 of the American Recovery and Renewal Act of 2009 (H.R. 1)(ARRA) requires governors to notify the Secretary of Energy that certain policies will be implemented in order for the state to receive an allocation of additional funds for the Federal State Energy Program (SEP). As discussed below, current Texas state law already provides for the policies referenced in the act, and as such, the additional SEP funds should be released to Texas without any further commitment by Texas to adopt policy changes.

With respect to a "general policy that ensures that utility financial incentives are aligned with helping customers use energy more efficiently," current Texas law provides for timely cost recovery of energy efficiency expenditures by electric utilities that are subject to state ratemaking jurisdiction. Texas law includes an incentive mechanism to reward electric utilities who exceed their minimum demand reduction goals and our utilities have routinely exceeded their minimum efficiency goals. Specifically, in 2007, Texas electric utilities exceeded their demand reduction goals by 25 percent. Therefore, Texas already meets the requirements of the ARRA with respect to electric utilities, and no further policy changes are necessary.

Natural gas rates and utilities are predominately regulated by municipalities and the Railroad Commission of Texas (RRC), which operates under three independently elected officials. Notwithstanding these facts, I have written to the members of the RRC and encouraged them to take actions related to energy efficiency policies that are within the scope of their authority and consistent with state law.

With respect to the building code requirements of the ARRA, the State Energy Conservation Office (SECO) has authority under current state law to review and adopt the energy efficiency provisions of the most recent editions of the International Energy Conservation Code and International Residential Code as statewide building codes. State law also includes clear provisions related to the enforcement of these codes, and SECO provides information and training materials to the building community. SECO is currently evaluating the adoption of the versions of the codes and standards referenced in the ARRA for residential and commercial buildings. Therefore, Texas already meets the requirements of the ARRA with respect to building codes, because if SECO does not adopt the specific codes and standards referenced in the ARRA, it will be because the existing codes provide for "equivalent or greater energy savings."

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It is my intention and belief that these entities will cooperatively work to prioritize and focus the grants, where appropriate, toward funding existing energy efficiency and renewable energy programs, of which Texas is among the nation's leaders.

~~I must express my concern, however, that your agency puts the state in a precarious position by announcing it will publish additional rules on permissible uses of the money after a state accepts the money. Should the DOE apply onerous strings to the use of this money that work to the detriment of Texas, it is my intention to return the money to the federal government.~~

Texas is committed to a balanced and diversified energy policy that includes the nation's leading competitive electricity market and the development of all our domestic energy resources. Our dedication to these issues is evidenced by the fact that Texas is not only the nation's leading oil and natural gas producer, but has also succeeded in installing more wind power than any other state, made wise investments in other sources of renewable energy, is undertaking an aggressive expansion of our state's transmission grid to facilitate renewable energy, has more proposed new nuclear plants than any other state and has made a significant commitment to energy efficiency. I encourage the new administration to follow Texas' lead in this area, and increase our nation's energy security and independence. Imposing unnecessary restrictions on the development of our domestic energy resources and implementing draconian carbon regulation and new taxes on our energy supply at a time when American families and business are struggling to make ends meet will only prolong the nation's recession and irreparably damage America's competitiveness.

We will continue to move forward in these critical areas, and look forward to immediate distribution of the Federal SEP funds for Texas.

Sincerely,


Rick Perry
Governor

RP:kwk

cc: Mr. Gil Sperling, Director, Office of Weatherization and Intergovernmental Programs, DOE
The Honorable Susan Combs, Texas Comptroller of Public Accounts
Mr. Dub Taylor, Director, State Energy Conservation Office
Mr. Barry T. Smitherman, Chairman, Public Utility Commission of Texas
Ms. Donna L. Nelson, Commissioner, Public Utility Commission of Texas
Mr. Kenneth W. Anderson, Jr., Commissioner, Public Utility Commission of Texas
The Honorable Victor G. Carrillo, Chairman, Railroad Commission of Texas
The Honorable Elizabeth A. Jones, Commissioner, Railroad Commission of Texas
The Honorable Michael L. Williams, Commissioner, Railroad Commission of Texas