Overview

This docket was initiated in August 2009 to determine whether or not an energy efficiency ("EE") requirement for electric and natural gas utilities subject to the jurisdiction of the Louisiana Public Service Commission ("LPSC" or "the Commission") was in the public interest. With the active participation of both utilities and environmental interest groups, the LPSC Staff ("Staff") found a general consensus that EE can provide benefits to both utilities and their customers. These benefits include reduced energy costs, increased customer satisfaction, improved reliability and energy security, reduced need for transmission distribution facilities, reduced fossil fuel usage, reduced environmental compliance burdens, and improved health and safety. Staff therefore solicited the assistance of parties to this rulemaking in developing a set of EE rules appropriate for LPSC-jurisdictional utilities.

The resulting EE rules include both a Phase I - "Quick Start" phase in which the utilities will implement an initial set of programs, and a Phase II - collaborative phase intended to result in long-term rules that will be used to implement a comprehensive set of programs. The Commission's purpose in implementing the Phase I Quick Start process is to encourage utility companies and their customers to make efficient use of energy and thereby realize bill savings by introducing an initial set of energy efficiency programs that can be designed and implemented quickly and economically. In addition, this will allow utilities to begin developing the infrastructure needed to support the successful implementation of energy efficiency programs in Phase II and over the long-term, subject to the Commission's approval.

The rules require each utility's Quick Start EE portfolio to include programs that strike the appropriate balance between maximizing net benefits to customers and developing the energy efficiency infrastructure in Louisiana, as well as, to meet as many of the following objectives as possible:

- provide energy savings;
• provide permanent peak demand reductions;
• be cost effective;
• reduce emissions including CO2;
• lead to increased system energy security by reducing load, which can contribute to a reduction in curtailments or system failures;
• be implemented efficiently;
• contribute to a reduction in the need for capacity resource additions; and
• increase utility energy efficiency capabilities and infrastructure.

Jurisdiction and Law

The LPSC has jurisdiction over this matter pursuant to Louisiana Constitution Article IV Section 21.

Procedural History

The Commission initiated this proceeding in August 2009 by publishing notice of the rulemaking in its Official Bulletin dated August 7, 2009, for a twenty-five day intervention period. The following parties intervened timely or were allowed to intervene out of time: Alliance for Affordable Energy, ALEC and the ALEC Cooperatives, Atmos Energy Corporation, CenterPoint Energy-Arkla and CenterPoint Energy Entex, CLEAResult, Cleco Power, LLC, EnerNoc, Inc., Entergy Gulf States Louisiana, L.L.C. and Entergy Louisiana, LLC, Global Green USA, Gulf Coast Clean Energy Application Center, Louisiana Energy Users Group and Boise Packaging and Newsprint, LLC, Marathon Petroleum Company, LP, NRG Energy, Inc., OPower, Inc., Sierra Club, Southwestern Electric Power Company, and the Tagos Group, LLC. In addition, the Southeast Energy Efficiency Alliance enrolled as an “interested party” but was allowed to file comments. Also enrolling as “interested parties” were: Louisiana Department of Natural Resources, Louisiana Economic Development, Gavin Dillingham, Frank Neelis, and Geavista Group.

J. Kennedy & Associates was hired in April 2010 to assist the Staff in this rulemaking. Parties filed an initial round of comments in April 2010 and a technical conference was held January 25, 2011. Parties filed a second round of comments in March 2011. On September 21, 2011, Staff issued its Proposed Rule and Third Request for Comments. At that time, and based on requests from parties, Staff considered delaying the rulemaking and received comments to this effect on October 29, 2011. After determining that a short delay was warranted, the Staff sought responses to its third request for comments by January 13, 2012.

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Staff then thoroughly reviewed the comments and developed a rule intended to address the various parties' concerns. Staff issued its Notice of Issuance of Staff Proposed Energy Efficiency Rules for Electric and Gas Utilities in the State of Louisiana and Final Request for Comment, including the revised rules and explanations for specific changes on October 15, 2012. The matter was placed on the December 2012 B&E agenda at the request of Commissioner Boissiere.

**Staff Recommendation**

Staff recommended that the Commission adopt the proposed rules issued October 15, 2012 with the modifications read into the record at the December 12, 2012 B&E by Commissioner Field. The modifications were intended primarily to address items included in the final comments received from parties on October 29, 2012.

**Commission Consideration**

Commissioner Holloway made a motion to pass this item until next month; Commissioner Skrmetta seconded this motion. However, Commissioners Campbell, Field and Boissiere objected. Therefore, this motion failed three to two.

Commissioner Field offered the following motion, which was seconded by Commissioner Boissiere:

*I move to adopt the energy efficiency rules issued for comment October 15, 2012 in Docket R-31106 with the following modifications:

1) Section V of the proposed rules should be amended as follows:

a) Utilities may implement market transformation programs that are necessary even if they do not pass the required total resource cost test proposed for all other programs. However, such market transformation programs should be limited to 25 percent of the total annual budget for all energy efficiency programs.

b) Utilities may move funding between categories and programs as necessary for program success, except with regard to the previously mentioned 25 percent cap on market transformation programs.

c) Utilities may engage one or more third-party administrators as appropriate to handle administration of the quick start energy efficiency programs.*
While the issue of lost revenue recovery found in section VI of the Staff's proposed rules is a difficult issue, and one of the most contentious in this rulemaking, I move that we allow utilities to recover lost revenues from participating customers that are a direct result of energy efficiency measures. The amount of recovery will require validation of the energy savings, and the formula to measure such savings and lost contribution to fixed costs will be developed during the 14 month period, when the quick start programs are being developed for implementation. The ultimate cost recovery will be approved in a base rate or formula rate proceeding. Impacts to ratepayers of this lost revenue recovery are mitigated by the limited nature of this phase 1 quick start process, and the potential for bill savings through the development of energy efficiency initiatives. This should not be construed to mean that the Commission will adopt a lost revenue recovery mechanism in the comprehensive phase, or that the Commission will take any specific approach to cost recovery therein.

2) With regard to the industrial opt-out provisions found at section VIII of the Staff's proposed rules, the following language should be added:
   a) Only industrial customers with annual peak loads equal to or greater than 200 kilowatts, located within the utility's service territory, are allowed to aggregate;
   b) Industrial customers with a combined aggregated demand of five megawatts or more may, but are not required, to participate in quick start energy efficiency programs.
   c) Any industrial customer that intends to opt out must provide notice to the utility within ninety days of the issuance of the Commission Order in this proceeding.

3) And finally, with regard to the timeline provisions in section IX of the Staff's proposed rules, I move that the following modifications be made:
   a) In order to provide utilities with sufficient time to collect the data that is necessary for rider adjustments and annual reporting requirements, I move that the rider adjustment deadlines be extended by four months, and that the annual reporting deadline by one month so that they are both filed on the 30th and 42nd months.
   b) The Staff report contemplated at section IX, number eight shall include a proposed recommendation that will be issued to parties for comment. If Staff deems it necessary, it
may schedule a technical conference at this time. Staff shall then issue its final recommendation at month 47. Phase one programs should be timed to continue until the beginning of phase two programs so that there is no gap with regard to energy efficiency measures if phase two programs are approved by the Commission.

However, Commissioners Holloway and Skrmetta objected and Commissioner Holloway offered a substitute motion to allow residential customers to opt out of the program. Commissioner Skrmetta seconded this motion; however Commissioners Campbell, Field and Boissiere objected. Therefore, the motion died for lack of a majority.

Commissioner Field’s motion was called back up for a vote. Therefore, on motion of Commissioner Field, seconded by Commissioner Boissiere, with Commissioners Campbell and Skrmetta concurring, and Commissioner Holloway objecting, the Commission voted to adopt the above motion.

IT IS THEREFORE ORDERED THAT:

1. The Commission hereby adopts the attached energy efficiency rules (See Attachment “A”)\(^2\).

2. This Order is effective immediately.

BY ORDER OF THE COMMISSION
Baton Rouge, Louisiana
January 10, 2013

\(\text{SIGNATURES} \) \\
District Chairman
D. Field

\(\text{SIGNATURES} \) \\
District II

\(\text{SIGNATURES} \) \\
District I

\(\text{SIGNATURES} \) \\
District III

\(\text{SIGNATURES} \) \\
District IV

Eve Kahao Gonzalez
SECRETARY

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1 This reference should be to Section XIII, which is where the industrial opt-out can be found. The order itself has been revised appropriately.

2 The attached rules are the October 15, 2012 proposed rules revised in accordance with Commissioner Field’s Motion.

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LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

LOUISIANA PUBLIC SERVICE COMMISSION,

EX PARTE

Docket No. R-31106 – In re: Rulemaking to study the possible development of financial incentives for the promotion of energy efficiency by jurisdictional electric and gas utilities.

(Decided at the Commission’s December 12, 2012 Business and Executive Session)

ATTACHMENT “A”

(Energy Efficiency Rules Applicable to LPSC Jurisdictional Investor-Owned Electric and Group I Gas Utilities)
Energy Efficiency Rules
Applicable to LPSC Jurisdictional Investor-Owned Electric and Group I Gas Utilities
Phase I - Quick Start

I. Overview

The following Energy Efficiency Rules shall be used by LPSC-jurisdictional investor-owned electric and Group I gas utilities ("also referred to herein as simply "electric" or "gas" "utilities") for implementation of an initial set of Energy Efficiency ("EE") programs. The utilities shall implement EE programs using the following two-phased approach.

Phase I, which is covered by this Rule, consists of a Quick Start process that expedites EE program implementation and begins developing the detailed EE policies required to implement cost-effective comprehensive long-term Commission approved EE programs. Phase II consists of a more detailed EE policy development and the implementation of Commission approved comprehensive programs. A separate rule covering Phase II will be developed in a subsequent rulemaking based on a collaborative process, and shall include additional aspects of EE program implementation not covered within Phase I.

II. Objectives of the Energy Efficiency Quick Start Process

The Commission's purpose in implementing the Phase I Quick Start process is to encourage utility companies and their customers to make efficient use of energy and thereby realize bill savings by introducing an initial set of energy efficiency programs that can be designed and implemented quickly and economically. Another important purpose is to begin developing the infrastructure needed to support the successful implementation of energy efficiency programs in Phase II and over the long-term, subject to the Commission's approval. To that end, each utility's Quick Start EE portfolio should include programs that strike the appropriate balance between maximizing net benefits to customers and developing the energy efficiency infrastructure in Louisiana. Each program shall strive to meet as many of the following objectives as possible:

- provide energy savings;
- provide permanent peak demand reductions;
- be cost effective;
- reduce emissions including CO2;
- lead to increased system energy security by reducing load, which can contribute to a reduction in curtailments or system failures;

1 Group I gas utilities are Atmos Energy Louisiana ("Atmos"), CenterPoint Energy Resources Corp., D/B/A CenterPoint Arkla and CenterPoint Entex (collectively, "CenterPoint"), and Entergy Gulf States, Louisiana, L.L.C. ("EGSL"), in accordance with the Commission's General Order dated March 24, 1999.

2 Comprehensive EE programs shall be evaluated in greater detail in Phase II, however, comprehensive programs will build on the experience gained in Phase I, and will potentially include more EE programs, and may be of a larger scale involving greater levels of penetration.
• be implemented efficiently;
• contribute to a reduction in the need for capacity resource additions; and,
• increase utility energy efficiency capabilities and infrastructure.

III. Definitions

Cost-effectiveness - A comparison of the costs and benefits of an EE program or measure, to determine the net benefits of the program or measure. Typically present value benefits are compared to present value costs to determine if the program or measure is economically desirable.

Demand Response - Changes in energy use by end use customers from their normal consumption patterns in response to changes in the price of energy over time, or in response to incentive payments designed to induce lower energy use at times of high wholesale market prices or when system reliability is jeopardized.

Energy Conservation – Term used to reflect doing with less of a service in order to save energy. The term is sometimes used instead of energy efficiency.

Energy Efficiency – Refers to a decrease in the rate at which energy is used by equipment and/or processes, while maintaining or improving the customer’s existing level of comfort and end-use functionality at a lower customer cost. Reducing the rate at which energy is used may be achieved by substituting more advanced technology, or by reorganizing the process to reduce waste heat, waste cooling, or energy. Demand response is a form of energy efficiency.

Energy Efficiency Savings - Those kW, kWh, or ccf savings realized by comparing measured energy use before and after implementation of an energy efficiency measure, or by reference to a set of deemed savings approved by the Commission.

Evaluation, Measurement and Verification ("EM&V") – The performance of studies and activities intended to determine the actual savings and other effects from energy efficiency programs and measures. The full scope of the EM&V process includes the evaluation of program design, implementation, cost effectiveness, market penetration, and verification of savings achieved from the programs.

Evaluation – In the context of EM&V, evaluation refers to methods used to determine impacts resulting from the implementation of EE programs, including program performance, program markets and operations, expected levels of energy and demand savings, and program cost-effectiveness.

Measurement and Verification – In the context of EM&V, M&V refers to a form of evaluation performed after implementation that relies on data collection, monitoring, and analysis associated with the calculation of overall energy and demand savings at individual sites or projects using one or more methods that can involve measurements, engineering calculations, statistical analyses, and/or computer simulation modeling with the goal of verifying the level of savings achieved.

Deemed Savings - is a measurement approach used with simpler or better-known measures that derive energy savings from pre-determined, verified estimates of energy and
peak demand savings\(^3\) attributable to particular energy efficiency measures, based upon engineering calculations, baseline studies and/or reasonable assumptions. Such savings are generally those representing the difference between standard efficiency measures and energy efficient measures. Deemed savings estimates may be derived from other evaluations previously performed and conducted by the utility, other utilities or governmental/regulatory agency studies. Deemed savings should be revised periodically to reflect new technologies and new federal, state or local policies and codes.

**Measured Savings** - is an approach to estimate savings for larger or less well known measures in which savings are calculated using methods that can involve measurements, engineering calculations, statistical analyses, experimental design, metering and monitoring, computer simulation modeling, etc.

**Market Transformation** - Strategic efforts to induce lasting structural or behavioral changes in the market that result in increased adoption of energy efficient technologies, services and practices. Energy savings from market transformation programs must be beyond that which would be achieved through compliance with building codes and appliance and equipment efficiency standards.

**Measure** - The equipment, materials and practices that when installed or implemented at a customer site result in a measurable and verifiable reduction in either purchased energy consumption, measured energy or peak demand or both.

**Portfolio** - The entire group of programs offered by the utility.

**Program** - A group of projects, with similar characteristics and installed in similar applications or targeting a particular population.

**Program Plan** - A plan to deliver a portfolio of energy efficiency programs, which includes a set of benefit/cost test results, specific objectives that can be evaluated using quantifiable measures, and provisions to evaluate, monitor and verify results.

**Program Year** - The year in which programs are administered and delivered, for the purposes of planning and reporting. A program year can consist of a calendar year, but may be defined as some other twelve (12) month period, if desired.

**Screening Tests:** These are evaluations that should be performed to determine which conservation and energy efficiency options should be eligible for further consideration in the utility's Quick Start Program. Screening tests shall follow the guidelines published by the California Public Utility Commission in its *Standard Practice for Cost-Benefit Analysis of Conservation and Load Management Programs*, which was first published in February 1983, and most recently updated in 2001.\(^4\) The manual defines the following standard tests:

- **Participants Test** – This test measures the *quantifiable* benefits and costs to the customer. The *benefits* to a customer include the reduction in the customer’s utility

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\(^3\) Note that whenever the phrase "peak demand savings" is mentioned, that phrase applies to electric utilities, not gas utilities.

\(^4\) [http://www.energy.ca.gov/greenbuilding/documents/background/07-J_CPUC_STANDARD_PRACTICE_MANUAL.PDF](http://www.energy.ca.gov/greenbuilding/documents/background/07-J_CPUC_STANDARD_PRACTICE_MANUAL.PDF)
bill (using the retail rate), any incentives paid by the utility, and any other benefits to the customer that can be quantified. Savings estimates should be based on gross energy savings, as opposed to net savings. The costs to a customer are all out-of-pocket expenses incurred, plus any increases in the customer's utility bill. The out-of-pocket expenses include all costs of purchasing and installing equipment or materials, any ongoing operation and maintenance costs; any removal costs (less salvage value); and the value of the customer's time in arranging for the installation of the measure, if significant.

• The Ratepayer Impact Measure (RIM) – This test measures what happens to customer bills or rates due to changes in utility revenues and operating costs caused by the program. Rates will go up if revenues collected are less than the total costs incurred by the utility in implementing the program. The benefits calculated in the RIM test are the savings from avoided supply costs. These avoided costs include the reduction in transmission, distribution, generation, and capacity costs for periods when load has been reduced, and includes the increase in revenues for any periods in which load has been increased. Both the reductions in supply costs and the revenue increases should be calculated using net energy savings. The costs for this test are the incremental program costs directly incurred by the utility, the incentives paid to participants, decreased revenues for any periods in which load has been decreased, and increased supply costs for any periods when load has been increased. The utility program costs include incremental initial and annual costs, such as the cost of equipment, operation and maintenance, installation, program administration, and customer dropout and removal of equipment (less salvage value).

• Utility Cost Test measures the net costs of a program based on the costs incurred by the utility. The benefits are the avoided supply costs of energy and demand, the reduction in transmission, distribution, generation, and capacity valued at marginal costs for the periods when there is a load reduction. The avoided supply costs should be calculated using net program savings. The costs for the Utility Cost Test are the incremental costs incurred by the utility, including the incentives paid to the customers, increased supply costs for the periods in which load is increased, program costs, which include initial and annual costs, such as the cost of utility equipment, operation and maintenance, installation, program administration, and costs due to customer dropout and removal of equipment (less salvage value).

• The Total Resource Cost Test measures the net cost of a program based on the total costs of the program, including both the participants' and the utility's costs. The benefits calculated in the Total Resource Cost Test are the avoided supply costs, the reduction in transmission, distribution, generation, and capacity costs valued at marginal cost for the periods when there is a load reduction. The avoided supply costs should be calculated using net program savings. The costs in this test are the program costs paid by the utility and the participants plus the increase in supply costs for the periods in which load is increased. Thus all equipment costs, installation, operation and maintenance, cost

5 Gross energy savings are the savings in energy seen by the participant at the meter. These are savings assumed to be attributable to the program. Net savings are gross savings minus changes in energy use and demand that would have happened even if the program were not implemented (i.e., from “free-riders”).
of removal (less salvage value), and administration costs, no matter who pays for them, are included in this test. Any tax credits are considered a reduction to costs in this test.

- **Societal Cost Test** measures the economic impact to the utility, service territory, state or broader region, as measured by the total resource cost test, plus indirect impacts such as environmental impacts.

## IV. General Energy Efficiency Program Requirements

Subject to certain specific requirements, all investor-owned LPSC-jurisdictional electric utilities and LPSC Group 1 gas utilities shall be responsible for developing, implementing, and administering an initial set of cost-effective Quick Start EE programs. Each utility shall be responsible for:

- Developing an implementation plan for Quick Start EE programs;
- Developing a budget for the Quick Start EE programs, which shall comply with the budget parameters discussed below;
- Developing a program cost recovery plan to collect the direct incremental program costs\(^6\), rebates, incentives paid, and comparable items from customers. Each utility shall use the attached uniform EE Rate Rider, modified only as necessary to address specific needs of the utility, for its cost recovery plan.
- Implementing the Quick Start Energy Efficiency Programs.
- Evaluating the results of the EE Programs.
- Reporting information to the Commission as required by Sections VII – X of these rules.

## V. Quick Start EE Program Design Requirements

Utilities shall include the following specific requirements in the design of their Quick Start program plans. This should be included in the information reported to the Commission for each program:

1. General description of each program.
2. Specific objectives for each program.
3. Rate classes to which the program will apply.
4. Customer incentives (i.e., rebates or subsidy payments to customers to induce participation in the program), if any.
5. Term (number of years) for the program.

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\(^6\) Incremental costs are costs that otherwise would not have been incurred had the Quick Start EE programs not been implemented. In other words, pre-existing costs associated with other programs should not be included in the costs recovered through this rider.
6. Estimated annual energy savings, lifetime energy savings and peak demand reductions for each program.

7. Detailed EM&V measures to evaluate whether each program has met its stated objective(s).

8. Estimated budget plan including all program costs, broken out by the following categories: (a) administration and planning, (b) promotion and advertising, (c) customer incentives, (d) delivery and vendors, (e) participant contributions, and (f) monitoring and verification.

9. All of the relevant details of the benefit cost analyses, including the annual and cumulative present value of costs, the annual and cumulative present value of benefits, the annual and cumulative net benefits, and the benefit-cost ratios for the cost evaluation tests discussed below.

10. Program participation rates, in which participation is measured in terms of households served, businesses served, measures installed, or other unit that is appropriate for the nature of the program.

11. Specific plan for cost recovery.

12. Plan for developing infrastructure necessary such as technical training as appropriate for the specific EE programs. Utilities should strive to strike a reasonable balance between implementing residential and non-residential Quick Start programs, and should include, to the extent possible, most major end uses. Given the objective of quickly developing cost-effective programs, utilities are encouraged to consider programs that have a documented track record of success in Louisiana and other jurisdictions. Deemed savings shall be utilized to measure kilowatt ("kW") and kilowatt-hour ("kWh") savings, and natural gas (ccf) savings. During the Quick Start phase, each utility shall devise plans and implement those plans, to the extent possible, to create the infrastructure necessary for the specific EE programs.

For purposes of Quick Start EE program cost effectiveness evaluations, the utility may use deemed saving estimates from other state programs or other nationally recognized source(s) of information for EE program benefits, (with appropriate adjustments for each specific Louisiana utility). The cost effectiveness evaluations should be presented for each EE program using the following cost effectiveness tests: the Participants Test, the Ratepayer Impact Measure, the Utility Cost Test, and the Total Resource Cost Test. It would be preferable for each EE program to have benefit cost ratios for each of these tests greater than 1.0, with the exception of the RIM test. However, in order to implement a program, at a minimum, each energy efficiency program must have a Total Resource Cost test that is greater than 1.0. The only exception to this cost-effectiveness requirement is a program implemented as a market

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7 Technical expertise in the marketplace is an important issue that should be considered by each utility during the Quick Start process.

8 For purposes of the Quick Start programs, utilities may report results of a Societal Cost Test at their discretion. Further consideration of which cost benefit tests to use for the more comprehensive EE programs shall be discussed in the next phase of the rulemaking.
transformation program, such as a technical training program designed to support the overall objectives of Quick Start programs. The utility shall provide justification concerning the implementation of any market transformation program that has a Total Resource Cost Test that is less than or equal to 1.0. In addition, Utilities shall limit any allocations to market transformation programs below the required TRC to 25% of the total annual budget for all of the utility’s energy efficiency programs. While funding may be moved between categories and programs as necessary for program success, the total budget for market transformation programs shall not exceed the aforementioned 25% cap.

Utilities may hire one or more independent third party administrators and/or contractors as appropriate to handle administration of the quick start energy efficiency programs and conduct their EM&V studies. While the Commission does not mandate that third party contactors must be hired, doing so could help ensure that the studies are unbiased and conform to industry best practices. Several utilities could even collaborate to hire a single contractor, or set of contractors, to promote statewide consistency and administrative efficiency.

Utilities shall make use of best utility practices to determine the budget to spend on EM&V for their Quick Start programs. Note that according to a 2010 Lawrence Berkeley National Laboratory study, the range for the cost of EM&V in several states is between two and five percent of the total EE budget. In another review of energy efficiency practices, the range for the cost of EM&V was found to be between three and six percent of the total EE budget.

Given the scrutiny that has already taken place by stakeholders and regulators in Arkansas, and to meet the goals of quickly implementing an initial set of EE programs in Louisiana, utilities are strongly encouraged to use the September 2012 Arkansas Technical Reference Manual to support their EM&V activities.

VI. Cost Recovery

Utilities are entitled to collect all incremental direct program costs, rebates, incentives paid to customers, and comparable items, associated with each Quick Start EE program consistent with these rules. Each utility will recover its costs based on its EE Rate Rider. Cost caps shall be imposed on the budgets associated with incremental direct program costs, rebates, incentives paid to customers, and comparable items to develop, implement, and administer quick start programs each year. In addition, each utility shall be required to make a good faith effort to spend at least a minimum amount to develop, implement, and administer its Quick Start EE activities.

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9 For example, the International Performance Measurement and Verification Protocol ("IPMVP") is an example of a best practice commonly used. IPMVP provides a framework to determine energy savings resulting from implementation of an energy efficiency program.


programs. In the first year, the utility shall make a good faith effort to spend a minimum of .25% of the utility’s prior calendar year retail revenues, but the utility shall not exceed a maximum expenditure of .50% of the utility’s prior calendar year retail revenues. In the second year and thereafter, the utility shall make a good faith effort to spend a minimum amount that is close to but does not exceed the budget cap amount of .50% of the same revenue value as had been used in the prior year. Note in Section XIII below, there is an Industrial Opt-Out provision. As such, utilities shall exclude the revenues associated with customers that are eligible to Opt-Out from the retail revenue used in the cost cap calculation.

It is evident that utility companies are concerned by the decrease in revenue associated with EE programs (also known as "lost revenue" or "lost contribution to fixed costs"), resulting from the decrease in energy consumption that EE programs cause. Utilities are concerned that this reduction in revenues makes it harder for them to meet their fixed cost obligations. In order to alleviate these concerns, utilities are allowed to recover lost revenues from participating customers that are a direct result of energy efficiency measures. The amount of recovery will require validation of the energy savings, and the formula to measure such savings and lost contribution to fixed costs will be developed during the 14-month period when the Quick Start programs are being developed for implementation. The ultimate cost recovery will be approved in a base rate or formula rate proceeding.

Notwithstanding the fact that utilities are allowed to recover these lost revenues in the Quick Start phase, there is no guarantee that the Commission will adopt a lost revenue recovery mechanism in the comprehensive phase, or that the Commission will take any specific approach to cost recovery therein.

VII. Filing of Energy Efficiency Plans and Annual Reports

Each utility shall file their Quick Start energy efficiency plans within this docket. No formal review shall be required; however, Staff or any party may file comments within one month of the utility’s energy efficiency plan filing, in order for the utility to review the comments and to give them due consideration. This will allow the comment process to be performed in a timely manner so as not to impede the commencement of the Quick Start programs, and should allow a sufficient amount of time in order for the utility, at its discretion, to make changes based on the comments received.

Each utility shall also file their Quick Start annual reports in this docket. No formal review shall be required; however, Staff or any party may file comments within one month of the utility’s annual report filing, in order for the utility to review the comments and to give them due consideration. This will allow the comment process to be performed in a timely manner so as not to impede the implementation of the Quick Start programs, and should allow a sufficient amount of time in order for the utility, at its discretion, to make changes based on the comments received.

The above procedure, as opposed to one that would require the Commission to hold a hearing and to issue an order making specific findings is based on the proposition that Quick Start programs are expected to be reasonably small investments (limited to the cost cap) which are highly likely to provide energy savings at a fairly low cost. Thus this filing procedure strikes a reasonable balance between the regulatory oversight needed for this Quick Start process, and the
need to meet one of the goals of Quick Start programs, which is to be implemented quickly. Furthermore, these rules include specific cost caps, which provide an upper limit to what may be spent on these programs. Notwithstanding these safeguards cited above, however, the Commission may, at any time during the Quick Start process, take any action necessary to ensure compliance with these rules, including but not limited to requiring a utility to report its progress at an Open Session and require that a docket be opened for a determination of whether a filing is consistent with these rules.

VIII. Staff Review and Audit

Each utility will be audited at the end of the Quick Start Process to review the costs that have been recovered through the EE Rate Rider. The audit contemplated by this rule is intended to be consistent with procedures employed by the Commission in audits of fuel adjustment clause and purchased gas adjustment filings, as follows:

- **Notice.** Staff will provide notice in the Commission’s Official Bulletin of the commencement of each audit. This notice will be for information purposes only.

- **Audit Report.** At the conclusion of the Staff’s investigation, an audit report shall be issued. This report must contain specific findings and recommendations concerning whether or not the costs passed through the EE Rider were reasonable and prudent, and appropriate for recovery in the EE Rider mechanism consistent with these rules. The report will be published in the Commission’s Official Bulletin for intervention. Any intervening party may request a hearing prior to final action by the Commission or the Commission may order hearings on its own motion. The Commission may accept the audit report as written, make modifications, and order changes and/or refunds where appropriate. Any costs that are disallowed shall be refunded to customers through the EE rider at an interest rate and over a time period determined in the audit proceeding.

- **Burden of Proof.** Each utility has the burden of proving that the costs passed through its EE Rate Rider were prudently incurred, and were eligible for recovery through the EE Rate Rider.

- **Retention of Documentation.** Each utility utilizing the EE Rate Rider must maintain the records to support its costs for a period of at least three years from the end of the calendar year in which the Quick Start programs end. In addition, should any audit of a utility’s EE Rate Rider costs become the subject of a Commission investigation, all documents pertaining to those costs must be maintained until all final appeals of any Commission action have been exhausted.


IX. Timeline for Implementation of Quick Start EE Programs

Each LPSC jurisdictional electric and gas utility shall be responsible for developing, implementing, and administering an initial set of cost-effective Quick Start EE programs. Utilities shall do this in accordance with the following timeline, commencing on the date of issuance of the Commission Order approving these rules. All parties on the service list of this rulemaking proceeding will automatically become parties in the Quick Start Phase. Notice will also be published for intervention; however, in an effort to continue expeditiously, the Commission's Rules of Practice and Procedure will be strictly adhered to and late interventions will not be viewed favorably.

1. Within 1 month - Staff shall schedule an initial technical conference to discuss program design issues, including the feasibility of creating uniform Louisiana EE programs. The Louisiana Department of Natural Resources ("LDNR") will be invited to discuss the possibility of Quick Start programs that could be designed to "piggyback" on the EE programs that the LDNR has already implemented. Staff will also reach out to other state and local agencies that may be interested in encouraging the development of energy efficiency projects including but not limited to Louisiana Economic Development ("LED") and the Louisiana Association of Community Action Partnerships ("LACAP"). Staff will determine, based on the discussion at the initial meeting whether additional stakeholder meetings would be useful, and if so, establish a schedule for that purpose.

2. Within 4 months - Each utility shall file:
   - Budget guidelines. These guidelines shall include the categories of costs that the utility will include in its budgets, and shall indicate how the utility plans to create its budgets. The budgets themselves will be developed at the time the programs are designed and filed in this docket.
   - EE Rate Rider. As mentioned previously, each utility shall use the attached uniform EE Rate Rider, modified only as necessary to address specific needs of the utility, for its cost recovery plan. Each utility's EE Rate Rider for the first program year shall be implemented concurrently with program implementation.

3. Within 10 months – Each utility shall file a representative portfolio of EE programs demonstrating that it has performed the following activities:
   - Developed a limited set of programs that have been shown to have a high probability of providing aggregate ratepayer benefits.
   - Developed estimates of program savings and benefits, and identified cost effectiveness results in accordance with the tests discussed in the definition section of these rules. Utilities shall demonstrate the programs that they chose to implement were selected based on attempting to maximize net benefits to customers while also attempting to develop energy efficiency infrastructure in Louisiana. Utilities may, at their discretion, compute cost-effectiveness results based on the societal cost test.
   - Utilized deemed energy savings to measure kW /kWh or ccf savings.
4. Within 1 month of the filing mentioned in number 3 above, (or 11 months from the date of the issuance of the Order) parties may file comments on the proposed portfolio of Quick Start programs. Utilities may, at their discretion, make adjustments to the program plans, based on the comments received.

5. At 14 months, programs should begin. Also at this time, utilities shall file final program plans in response to comments received from parties. Any changes made should be fully explained in the filing. Along with the final program plans, each utility shall confirm that it has performed the following activities:
   - Recruited contractors;
   - Begun certification and training of contractors as necessary;
   - Developed administrative resources and processes at the utility; and,
   - Implemented program tracking and reporting procedures.

6. At 30 months (4 months after the end of the first program year), and 42 months (4 months after the end of the second program year) utilities shall make rate rider adjustments to collect any under-recovered amounts, or refund any amounts over-collected that occurred during the prior program year. Also, at the end of the first program year, the EE Rate Rider may be revised for the projection of costs over the second program year, subject to the revenue budget cap.

7. Also at 30 and 42 months, utilities shall file their Quick Start Annual Reports, including the results of their EM&V evaluations covering the first and second program years respectively. Within one month after the filing of the Quick Start Annual Reports, Parties may file written comments.

8. At 45 months the Quick Start Phase shall be complete, and Commission Staff will issue a proposed recommendation to the parties for comment. If Staff deems it necessary, it may schedule a technical conference at this time.

9. At 47 months, Staff shall issue its final recommendation to the Commission.

10. Phase I programs should be timed to continue until the beginning of Phase II programs so that there is no gap with regard to energy efficiency measures if Phase II programs are approved by the Commission.

X. Quick Start Annual Reports

The Quick Start annual reports shall include the following information for each EE program:

- Annual energy savings (in MWh) for electric utilities.
- Lifetime savings (in MWh) for electric utilities.
- Annual load reduction (in kW) for electric utilities.
- Annual natural gas savings (in ccf) for natural gas utilities.
- Lifetime savings (in ccf) for natural gas utilities.
• Annual program cost, broken out by (a) administration and planning, (b) promotion and advertising, (c) customer incentives, (d) delivery and vendors, (e) participant contributions, and (f) monitoring and verification.

• Annual and cumulative present value of benefits, annual and cumulative present value of costs, annual and cumulative present value of net benefits, and benefit cost ratios, using at least the Total Resource Cost test and the Utility Cost test.

• Program participation rates. Participation can be defined in terms of households served, businesses served, measures installed, or other unit that is appropriate for the nature of the program.

• Implementation issues, such as barriers against increased participation.

• Recommendations to improve the programs.

• Efforts by the utility to staff and train employees regarding the development and implementation of EE programs and infrastructure (such as the development of trade allies in the utilities' regions).

Each annual report shall also include a section that directly compares the information above with the same information from the Quick Start plan projection, in order to assess how well the utility performed in meeting the forecasts of the plan.

With regard to EM&V Reporting Requirements, Utilities shall provide a detailed explanation of each EM&V evaluation used for each EE program as well as all assumptions, work papers, supporting documentation, and spreadsheets used in the EM&V calculations.

XI. Fuel Switching

During the Quick Start Phase, LPSC regulated utilities shall be prohibited from offering EE programs that encourage customers to switch from electric to natural gas or from natural gas to electric appliances and services. This shall be reexamined in Phase II as part of the Collaborative process described below.

XII. Collaborative Process - Phase II Final Energy Efficiency and Conservation Rule

As soon as practical after the issuance of this order, Staff shall begin the development of the Phase II rules based on a collaborative process with interested parties, which utilities will adhere to in developing their Phase II programs. This process will begin with a technical conference, at which time a schedule will be established for developing Staff's recommendation for the Phase II rules, and for utilities to implement Commission approved Phase II programs. Best efforts should be made to establish a schedule that will allow the Commission to approve the Phase II rules, and to begin implementing the Phase II programs when the Quick Start phase ends. Should the Quick Start EE programs prove successful, consideration will be given to continuing and expanding those programs in Phase II. Other programs may be included in Phase II as well.

The Commission Staff will facilitate the Phase II Collaborative process and shall, to the extent possible, encourage participation of other state agencies, in addition to all LPSC-Jurisdictional
electric and gas utilities in the process. All parties on the service list of this rulemaking proceeding will automatically become parties in Phase II. Notice will also be published for intervention; however, in an effort to continue expeditiously, the Commission’s Rules of Practice and Procedure will be strictly adhered to and late interventions will not be viewed favorably.

The scope of the issues to be addressed by the collaborative process will be determined by Staff, with guidance from members participating in the collaborative process. It is anticipated that the following range of topics will be addressed, including but not limited to:

1. Whether electric cooperatives and LPSC Group II and III gas utilities should be required to participate in EE programs.
2. Whether opt-out provisions for industrial customers should be included.
3. The type of incentives to be included in EE programs that utilities may recover from ratepayers.
4. Which costs should be recovered, and how they should be recovered. This includes consideration of whether lost revenues should be included in the cost of EE programs.
5. How LPSC audits of Phase II EE programs should be conducted.
6. How CHP should be included in EE programs.
7. Time frame for implementing Phase II EE portfolios.
8. The size of program budgets that should be allowed.
9. Program design issues such as the measures to include in efficiency programs.
10. How cost effectiveness should be measured, and how the goals of maximizing net benefits to customers and developing EE infrastructure in Louisiana should be balanced.
11. How to design the EM&V process and to review the EM&V results.
12. Whether EE programs should be permitted that encourage customers to switch from electric to natural gas or from natural gas to electric appliances and services.

XIII. Industrial Opt-Out

Industrial customers having one or more individual electric service accounts in Louisiana with a combined aggregate demand of five thousand (5,000) kW or more shall be excluded from participation in the Quick Start EE programs for all of their accounts and from all costs associated with such programs, provided however that such customers may choose to participate in Quick Start EE programs and costs applicable for any individual accounts with less than five thousand (5,000) kW demand. Only industrial customers with annual peak loads equal to or greater than two hundred (200) kW, located within the utility’s service territory, are allowed to aggregate. Industrial customers with a combined aggregated demand of five thousand (5,000) kW or more may but are not required to participate in quick start energy efficiency programs. Any industrial customer that intends to opt out must provide notice to the utility within ninety days of the issuance of the Commission Order in this proceeding. Electric service demand for purposes of Quick Start EE program eligibility shall be determined based on the calendar year
preceding adoption of the issuance of the Order approving these rules, or the most recent 12 months prior to the issuance of the Order approving these rules, if it provides a larger number of kilowatts. Nothing herein shall preclude the LPSC from considering participation by industrial customers in Phase II EE programs.

XIV. Treatment of Information Designated as Trade Secret, Proprietary, or Confidential

To the extent that any information required to be provided by this Order is provided to the Federal Energy Regulatory Commission or any other public agency, is published, reported or otherwise disseminated outside of the utility or is otherwise a matter of public record, it will not be considered proprietary or confidential information or a trade secret. If a claim is made that information is proprietary, confidential, or a trade secret, that issue shall be addressed in accordance with the provisions of Rule 12.1 of the Commission’s Rules of Practice and Procedure and the Commission’s August 31, 1992 General Order. If the Commission determines that any such information is proprietary, confidential or a trade secret requiring exemption from public disclosure, that exemption shall expire no later than two years from such Commission determination or upon the expiration of the contract/agreement containing the proprietary information, whichever is later, or at such other time as the Commission may designate.