**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 August 21, 2013 Business and Executive Session)

***BACKGROUND AND PROCEDURAL HISTORY***

The Louisiana Public Service Commission ("LPSC" or "the Commission") approved Energy Efficiency ("EE") rules at its December 2012 Business and Executive Session ("B & E"). Originally proposed by the Commission Staff ("Staff") in the above-captioned rulemaking on October 15, 2012, the rules required the largest LPSC-jurisdictional electric and gas utilities to implement programs using a "Quick Start" process and allowed them to recover the direct program costs through an EE rider. Prior to the Commission vote, Commissioner Field proposed several modifications including the additional recovery of lost contributions to fixed costs. The modified rules were approved and attached to the Commission's General Order dated January 10, 2013. Subsequently, at the Commission's February 27, 2013 B&E, the Commission voted to overturn and vacate the January Order to address concerns related to the potential impacts of the rules on commercial customers. A General Order memorializing the February 27, 2013 vote was issued March 28, 2013. At the Commission's June 26, 2013 B&E, the Commission once again revisited the rules approved in December, reinstating the rules and suspending them pending comments from parties regarding additional modifications. A General Order was issued July 23, 2013 reflecting the reinstatement and suspension of the rules.

Commission Staff issued proposed modifications for comment July 3, 2013 and provided a summary of the comments received to Commissioners in advance of the July 31, 2013 B&E. At the July B&E, Commissioner Angelle announced that he would have a motion for the August 21, 2013 B&E, a copy of which would be made available the Monday prior to the meeting. On Monday, August 19, 2013, a red-lined version of the December rules was placed on the Commission's website, along with a comparison chart and correspondence from

the Commission's largest electric utilities indicating their willingness to participate in the Quick Start Program.

The August 19, 2013 red-lined rules posted to the Commission's website included a change from a mandatory to a voluntary program, the addition of smaller electric and gas utilities, a prohibition on comingling or cross-allocation of funds collected from different rate classes, the addition of a Staff review of utility plans for compliance with the rules, a $75 cap on monthly bills, a look back provision, and a timeline start date of October 1, 2013. Amendment number 2013-R-31106 detailing specific changes and attaching final proposed rules was formally filed into the record of Docket No. R-31106 on August 21, 2013.

***JURISDICTION***

Pursuant to Article IV, § 21 of the Louisiana Constitution of 1974, the Commission has the constitutional authority to regulate public utilities and to "adopt reasonable rules, regulations, and procedures necessary for the discharge of its duties...." This decision was rendered pursuant to this constitutional authority.

***COMMISSION CONSIDERATION***

On motion of Commissioner Angelle, seconded by Commissioner Campbell, with Commissioner Boissiere concurring, Commissioner Skrmetta opposing, and Commissioner Holloway absent, the Commission voted to lift the stay of the Commission's Energy Efficiency Rules attached to the General Order dated January 10, 2013 in docket No. R-31106 subject to the inclusion of Amendment Number 2013-R-31106, a copy of which was filed into the record of Docket No. R-31106.

***"This space is intentionally left blank."***

**IT IS THEREFORE ORDERED THAT:**

1. The stay of the Commission's Energy Efficiency Rules attached to the General Order dated January 10, 2013 in Docket No. R-31106 is hereby lifted subject to the inclusion of Amendment Number 2013-R-31106, a copy of which amendment was filed into the record of Docket No. R-31106.
2. The Commission's revised Energy Efficiency Rules are attached hereto.
3. This Order is effective immediately.

**BY ORDER OF THE COMMISSION**
**BATON ROUGE, LOUISIANA**
September 20, 20133

***OBJECTING***
**DISTRICT I**
**CHAIRMAN ERIC F. SKRMETTA**

***ABSENT***
**DISTRICT IV**
**VICE CHAIRMAN CLYDE C. HOLLOWAY**

***/S/ FOSTER L. CAMPBELL***
**DISTRICT V**
**COMMISSIONER FOSTER L. CAMPBELL**

***/S/ LAMBERT C. BOISSIERE***
**DISTRICT III**
**COMMISSIONER LAMBERT C. BOISSIERE, III**

**EVE KAHAO GONZALEZ**
**SECRETARY**

***S/ SCOTT A. ANGELLE***
**DISTRICT II**
**COMMISSIONER SCOTT A. ANGELLE**

# 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 may be used by LPSC-jurisdictional electric and gas utilities ("also referred to herein as simply "electric" or "gas" "utilities") for implementation of an initial set of Energy Efficiency ("EE") programs. Any utility that elects to implement programs in Phase I shall do so in accordance with the following rules.

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.[1]

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.

All electric and gas utilities shall notify the LPSC, in writing, by October 1, 2013 of their election of participation or non-participation in Phase I described herein above. Once a utility notifies the LPSC of their decision to participate in Phase 1, said decision shall be irrevocable, unless for force majeure reasons, the LPSC approves a waiver in response to a petition from a participating utility. An election to participate in Phase 1 does not bind the requirement for electric and gas utilities to voluntarily participate in Phase 2.

## 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;

[1] 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.

- 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.

## 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[2] 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*

[2] Note that whenever the phase "peak demand savings" is mentioned, that phrase applies to electric utilities, not gas utilities.

*Conservation and Load Management Programs,* which was first published in February 1983, and most recently updated in 2001.[3] 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 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.[4] 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).

---

[3] http://www.energy.ca.gov/greenbuilding/documents/background/07-J_CPUC_STANDARD_PRACTICE_MANUAL.PDF

[4] 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").

- *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 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 described in additional detail below, all participating electric and 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[5], 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.

[5] 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.

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.

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.[6]

13. Utilities shall not comingle residential and non-residential Quick Start EE rate rider income. This program shall prohibit cross allocation between residential and non-residential customers.

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

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

Measure, the Utility Cost Test, and the Total Resource Cost Test.[7] 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 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.[8] 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.[9] 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.[10]

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.[11]

## VI. Cost Recovery

---

[7] 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.

[8] 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.

[9] "Review of Evaluation, Measurement and Verification Approaches Used to Estimate the Load Impacts and Effectiveness of Energy Efficiency Programs", Mike Messenger, Ranjit Bharvirkar, Bill Golemboski, Charles A. Goldman, Lawrence Berkeley National Laboratory, April 2010, http://eetd.lbl.gov/ea/emp/reports/lbnl-3277e.pdf

[10] Model Energy Efficiency Program Impact Evaluation Guide, A Resource of the National Action Plan for Energy Efficiency, November 2007, http://www.epa.gov/cleanenergy/documents/suca/evaluation_guide.pdf

[11] The APSC's Order 17 in Docket No. 10-100-R approved Version 2.0 of the TRM on September 18, 2012. http://www.apscservices.info/EEInfo/TRM.pdf

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 programs. In the first year, the utility shall make a good faith effort to spend a minimum of .25% of the utility's 2012 retail revenues, but the utility shall not exceed a maximum expenditure of .50% of the utility's 2012 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 2012 retail revenues. 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. Note in Section XV below there is a capping of EE Rider Rates. As such utilities shall consider this cap 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 12-month period when the Quick Start programs are being developed for implementation. Utilities will not be required to implement programs until such formula is developed and finalized. The amount of proposed recovery may be considered a regulatory asset by the utility and may be reconciled in a base rate or formula rate plan proceeding, whichever comes first. Alternatively, utilities may use the EE Rate Rider described herein to recover contemporaneously the amount of proposed recovery from participating customers subject to annual true-up. 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 EE plans within this docket. Staff will perform a limited review of Utility Quick Start EE plans to ensure compliance with these rules. This limited review will not include a Staff recommendation as to what programs should or should not be implemented, but will ensure that utilities are following the guidelines set forth in these rules. Staff's approval in this regard will not prejudice the Commission's authority to make investigations and require any changes it legally finds to be reasonable and/or necessary. Nor will it serve as legal precedent in the audit proceedings conducted pursuant to Section VIII below.

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[12] and purchased gas adjustment[13] 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

[12] General Order dated 11/6/97 (Docket No. U-21497 – Louisiana Public Service Commission, ex parte. In re: Development of standards governing the treatment of fuel costs by electric utility companies.

[13] General Order dated 03/24/99 (Docket No. U-22407 – Louisiana Public Service Commission, ex parte. In Re: Development of Rules, Regulations, Practices and Procedures Relative to the Weighted Average Cost of Gas Filings made by Jurisdictional Gas Utilities.

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 October 1, 2013. 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. The starting point for the herein below identified time periods shall be October 1, 2013.

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 8 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, 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 12 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 28 months (4 months after the end of the first program year), and 40 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 28 and 40 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 43 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 45 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.

## Section XV. Capping of EE Rider Rates

The American Council for an Energy-Efficient Economy estimates the typical residential customer (1,000 kw usage) will be assessed $0.47 monthly and the typical non-residential customer (12,500 kw usage) will be assessed $5.41 monthly. Regardless of usage, no residential or non-residential customer shall be assessed more than $75 monthly.

## Section XVI. Look Back Provision, Right to Reimbursement

Any non-residential customer subject to the assessment of energy efficiency fees pursuant to these rules shall have the opportunity for reimbursement of the applicable fees upon a showing that during the preceding twenty-four months of the effective date of these rules the customer self-directed funds for energy efficiency and had verifiable savings sufficient to meet the 1.0 TRC test. The non-residential customer may seek the reimbursement from its utility provider anytime from the commencement to the completion of this program. In no event shall the reimbursement of applicable fees exceed the actual amount of customer self-directed funds spent on energy efficiency or the amount of applicable fees actually paid by customer during Phase I-Quick Start. Utilities shall be reimbursed for any amounts spent investigating customer requests or verifying claimed savings under this section. Disputes should be submitted to the Commission and all proper documentation shall be maintained until the issue is resolved and the audits contemplated in Section VIII have been concluded.