

# **Arkansas's Energy Efficiency Story**

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# Arkansas State Law Basis for PSC Jurisdiction over Utility Efficiency

- ❖ 1977 --- Arkansas General Assembly declared energy crisis in nation and state and enacts the "Energy Conservation Endorsement Act of 1977"; decrees an "overriding public interest in energy efficiency"
- ❖ Energy efficiency and conservation programs were declared an "essential role and function of public utilities regulated by the PSC"; costs were deemed a "proper cost of providing utility service"
- ❖ Legislature gave broad plenary authority to the Arkansas PSC to "propose, develop, solicit, approve, require, implement, and monitor" measures by utilities which would cause them to incur costs for providing efficiency programs
- ❖ The law provides for utility cost recovery "at the time any such programs or measures are approved and ordered into effect"

# Law Lays Dormant for 29 Years, until .....

- ❖ Summer, 2005 ---- National Petroleum Council releases grim study on likelihood of long-term natural gas supply/demand imbalance
- ❖ Forecasted continuation of "higher than normal" natural gas prices which would affect both natural gas and electricity customers
- ❖ PSC looks to state law and finds the 1977 statute that would allow it to require utility efficiency programs to help minimize customer bill increases due to fuel costs
- ❖ **Now, in 2011**, with increasing environmental compliance costs, new baseload generation construction, transmission build-out, infrastructure modernization, etc., we have **\$2 – 3 Trillion** of new cost pressures to put an even higher emphasis on energy efficiency

# Arkansas PSC's First Steps

- ❖ Late 2005/Early 2006 ---- PSC applied for and became one of 6 EPA state partners in EPA's "State Energy Efficiency Partnership Program"; EPA funds an expert facilitator from the Regulatory Assistance Project (Rich Sedano) to help PSC pursue a collaborative issue discussion and proposed rulemaking process
- ❖ PSC hosted workshop in February 2006 and then convened numerous Collaborative Sessions throughout 2006 involving all of the relevant stakeholder communities
- ❖ Collaborative Report was compiled and proposed rules submitted to the Commission; with very few changes, the Commission approves and adopts "Rules for Conservation and Energy Efficiency Programs" in January 2007

# List of Key Stakeholders in Collaborative Process

- ◇ All gas and electric utilities (including electric cooperatives)
- ◇ Commission Staff
- ◇ Attorney General's office with nationally renowned expert consultant
- ◇ Industrial customer group
- ◇ Commercial customers
- ◇ Community action agencies with expert consultants
- ◇ Consultants/experts from federal agencies
- ◇ Neighboring state agency reps
- ◇ State Energy Office
- ◇ Renewable energy rep
- ◇ Engineering firm
- ◇ Wal-Mart
- ◇ Technology vendors

# **Key Elements of PSC's 2007 Energy Efficiency Rules**

- ❖ Defined Purpose and Scope of Rules
- ❖ Defined Benefits and Objectives of Programs
- ❖ Administration and Implementation Policies
- ❖ Utility Plan Filing Requirements
- ❖ Demand-side programs equal to Supply-side
- ❖ Cost-Benefit Tests Described
- ❖ Cost Recovery Assurances
- ❖ Annual Reporting Requirements

# Post-Order 2007 Action Steps

- ❖ Collaborative process was initiated and report made to Commission on the appropriate “Deemed Savings” approach to justify the initial round of “Quick Start” programs
- ❖ Utility applications were made and approved to implement “Quick Start” programs as of October 2007
- ❖ “Quick Start” programs were defined to include the most cost-effective “low hanging fruit”, such as commercial lighting, HVAC, industrial processes and motors; they had been tried and true elsewhere, and had proven cost-effective

# “Quick Start Phase” Issues

- ❖ The Energy Efficiency Cost Recovery (“EECR”) rider was developed and implemented to recover direct program costs, but lost revenue or EE incentive earnings issues were deferred
- ❖ Industrial customers lobbied for opt-out provision
- ❖ The AG’s office wanted to turn programs over to an independent administrator and have independent verification of energy savings
- ❖ Gas companies wanted fuel-switching promotions
- ❖ The definition of “comprehensive”, for the next round of programs, becomes an issue
- ❖ AG and Audubon want EE goals or targets

# “Quick Start Phase” Funding

- The utilities’ combined EE program spending on Quick Start programs stayed essentially level throughout 2007-2009, between \$7.3 - \$7.9 million
- Utilities proposed continuing many of the same Quick Start programs in 2009 and wanted to label them “comprehensive”, which initiated more debate and spurred the Commission to open a docket to define the term “comprehensive”
- The overall utility budget levels rose somewhat in 2009 to cover some demand response programs as well
- The 2010 Quick Start budgets rose to \$16.7 million

# Second Wave of PSC Energy Efficiency Dockets and Orders

After some experience was gained from the Quick Start programs, the Commission opened several new dockets and issued orders to respond to issues that arose in the first phase:

1. Independent Administrator for EE Programs
2. Evaluation, Verification and Measurement (“EM&V”)
3. Self-directed large C&I energy efficiency (“EE”) programs (or, industrial “opt out”)
4. Lost Contributions to Fixed Cost recovery
5. The definition of “Comprehensive”
6. Utility EE incentives and utility goals or targets
7. Full Fuel Cycle Efficiency

# **Order Regarding an Independent System Administrator for EE Programs**

- ❖ The Arkansas Attorney General (“AG”) has urged the Commission to establish a single independent program administrator for EE programs and services
- ❖ The Commission declined the AG’s recommendation

# **Orders Establishing a Collaborative to Develop EM&V Protocols and to Propose Amendments to the EE Rules**

- ❖ The Commission favored the immediate development of EM&V “best practices” to insure a certain level of EE achievement during the next three years (2011 – 2013)
- ❖ The Commission directed non-exempt utilities to participate in an EM&V stakeholder collaborative to recommend EM&V protocols and any necessary amendments to the EE Rules regarding EM&V
- ❖ The Commission directed the General Staff to engage an independent EM&V expert to assist in the development of EM&V protocols
- ❖ The Commission will require the implementation of National Action Plan for Energy Efficiency (NAPEE) EM&V best practices, unless the parties show good cause as to why these practices should not be adopted

# **The Commission Established a Rule Making for Large Commercial & Industrial (“C&I”) Customers to “Self Direct” EE**

- ❖ The Commission found that allowing large C&I customers to “opt-out” of utility provided EE programs and to provide their own “self-directed” EE measures was in the public interest
- ❖ The Commission ordered a stakeholder collaborative to explore self-directed C&I EE options
- ❖ The Commission determined that self directed large C&I EE programs must provide at least as much EE as would have occurred without the self directed option

# **Order Approving the Joint Utility Motion to Collect Lost Contributions to Fixed Costs (“LCFC”)**

- ❖ The Commission approved a modified EE utilities’ request to collect LCFC from retail consumers
  
- ❖ To collect LCFC, the utility must:
  - Offer comprehensive and significant EE programs designed to achieve EE goals; and
  - Achieve a level of EE and each year be subject to an independent and robust EM&V true-up approved by the Commission

# **Order Defining “Comprehensive” in the Planning, Approval and Implementation of Essential EE Services**

- ❖ The Commission established a “checklist” to better define comprehensive EE programs
- ❖ The Commission established EE Default Goals for EE program achievement

**EE Default Goals (Continued)**  
**The Goals Represent a Percentage**  
**of 2010 Load**

	2011	2012	2013
Electric Utilities	.25%	.50%	.75%
Gas Utilities	.20%	.30%	.40%

# Order Regarding Utility Energy Efficiency Incentives

- ❖ The Commission approved a general policy under which utilities may receive incentives to reward achievement for the delivery of EE programs and services
- ❖ Incentive EE benchmarks are established in the “Comprehensive” Order
- ❖ Incentives are based on a shared savings of benefits
- ❖ No penalty is currently established for failure to meet EE goals

# And Five New Dockets are Created

		Mandatory Co-op Participation	
Docket No.	Description	Yes	No
10-100-R	Rulemaking Regarding EM&V Protocols		X
10-101-R	Rulemaking Regarding C&I Self Directed EE		X
10-102-U	Smart Grid, Adv. Metering, & Demand Resp.	X	
10-103-U	Impact of Electric & Natural Gas Vehicles		X
10-104-U	EE on the Utility Side of the Meter		X

# 2011 EE Docket Activities

- ❖ Utilities propose 3-year “comprehensive” plans and budgets to meet the target savings levels, and PSC approves them mid-year for immediate implementation
- ❖ The EECR rider includes the initial estimate of LCFC for the first time
- ❖ Utilities’ planned combined budgets on Comprehensive programs begins at \$30 million for 2011, escalating to \$79 million in 2013
- ❖ PSC Staff leads collaborative process to develop new rules for EM&V (with the assistance of an independent EM&V expert funded by the utilities)
- ❖ PSC Staff leads collaborative on C&I “Opt-Out” rules

# PSC Orders on 2011 Issues

- ❖ Commission amends its EE Program Rules to address the C&I customer “Opt Out” issue, as well as EM&V
- ❖ **On the “Opt Out” issue**, the customer has to file a Certificate of Exemption, demonstrating that they have or will make an investment in an EE measure commensurate with a utility-filed EE plan which will achieve the same level of EE savings as the PSC goal
- ❖ **On the EM&V issue**, the utility-sponsored programs shall demonstrate EE savings consistent with the Arkansas Technical Reference Manual (TRM) and national best program evaluation practices established by NAPEE, SEE Action, or the International Protocol

# **For More Information, See APSC Sustainable Energy Resources (SER) Action Guide, and APSC Rules**

## **Conservation and Energy Efficiency Rules:**

[http://www.apscservices.info/Rules/energyconservation rules 06-004-R.pdf](http://www.apscservices.info/Rules/energyconservation%20rules%2006-004-R.pdf)

## **The SER Action Guide provides:**

- 1.A report to the public, utilities, and stakeholders regarding EE progress to date;
- 2.Explains a number of policy statements; and
- 3.Describes future efforts of the Commission to explore various policy issues.

<http://www.apscservices.info/hottopics/APSCDocketNo08-144-USustainableEnergyResourcesActionGuide.pdf>