

## **Attachment B – Timeline of Activities**

1. **Hiring** – Goal of hiring the Administrator and EM&V Contractor by the August 2024 B&E Session.
2. **Budget Allocations** – Budget Allocations shall be submitted for approval by the Administrator at the January B&E session prior to the start of the budget cycle.
3. **EER and Rate Reconciliation Filings** – Utilities should cooperate to develop uniform rate riders and plans for using standard rate reconciliation documents, and make a filing for both on April 1, 2025.
4. **Program Plans** – The Administrator’s and EM&V Contractor’s Budget Cycle Plans shall be filed as part of a docketed proceeding on May 1 of the year prior to the start of the next budget cycle.
5. **Opt-Out Notification** – Industrial customers must provide notification of their intention to opt-out by April 1 of the year prior to the start of the next budget cycle.
6. **Commission Approval Budget Cycle Plans** – The Commission’s goal is to approve the Administrator’s and EM&V Contractor’s Budget Cycle Plans at the October B&E session prior to the start of the next budget cycle.
7. **Budget Cycle Plans Compliance Filing** – The Administrator and EM&V Contractors shall make compliance filings with the final Budget Cycle Plans in November, prior to the start of the budget cycle.
8. **Program Implementation** – Programs will be implemented beginning January 1, 2026 for the first budget cycle covering four years, and programs will be designed to operate on a calendar plan year basis. The end of the first budget cycle will be December 31, 2029.
9. **Annual Reports** – The Administrator and EM&V Contractor shall file Annual Reports by April 1 of the year following the end of the plan year.
10. **Reconciliation Filing** – Utilities shall make reconciliation filings by May 1 of the year following the end of the plan year. New EE Rider rates go into effect in June of the year following the end of the plan year.
11. **EE Program Audits** – The first audit shall be conducted as soon as practicable following the end of the second plan year of the first budget cycle. After that, audits will be conducted as soon as practicable following the end of each budget cycle, including the end of the first budget cycle.

**ATTACHMENT C-Redline of Rule**

**DOCKET NO. R-31106  
FINAL PHASE II ENERGY EFFICIENCY RULES**

**December 1, 2023**

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Final Phase II EE Rules

Docket No. R-31106

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## Overview

The following provides the Louisiana Public Service Commission's ("LPSC" or "Commission") Phase II Energy Efficiency ("EE") Rules ("EE Rules"), which replace the Quick Start EE Rules ("QS Rules") that have been in effect since the QS Rules General Order<sup>1</sup> was issued. These EE Rules provide the framework for transitioning from the current QS program to a comprehensive Commission-led statewide EE program implemented on a mandatory basis for all jurisdictional Electric Investor Owned Utilities ("IOUs"), Group 1 Gas Utilities, and Electric Cooperatives.<sup>2</sup>

Upon passage of these EE Rules, the Commission will conduct a Request For Qualifications ("RFQ")/Request For Proposals ("RFP") process to hire a Program Administrator (the "Program Administrator" or "Administrator") and an Evaluation, Measurement, & Verification ("EM&V") Contractor, discussed further herein, with the goal of hiring both by the August 2024 Business and Executive Session ("B&E"). The Administrator, in collaboration with the EM&V Contractor, will utilize through the end of 2025 as a transition period to design and seek Commission approval of the EE Program and Budget Cycle Plan for the first budget cycle, as discussed further below, pursuant to the goals and objectives outlined in these EE Rules. The objective will be to begin the Commission's first four-year EE program cycle on January 1, 2026.

All utilities operating existing QS programs shall continue to operate those programs, without interruption, until the Commission's energy efficiency program begins. These rules do not initially contemplate that a Fiscal Agent will be required; however, further consideration of the need for a Fiscal Agent will be contemplated, and should a determination be made that one is necessary, the hiring of a Fiscal Agent will be proposed to the Commission for approval.

The Commission's primary goal with the EE Rules is to utilize energy efficiency projects designed to reduce energy usage and make homes and businesses more energy efficient, thereby reducing a customer's overall energy bill. The specific goals for the Commission's EE Rules are:

1. Increase the ability and potential for customers to decrease energy usage with the overall goal of reducing energy bills;
2. Promote the use of least costs energy resources;
3. Provide expanded energy savings benefits;
4. Be cost effective and implemented efficiently;
5. Reduce overall emissions;

<sup>1</sup> The QS EE General Order was decided at the Commission's August 21, 2013 B&E Session, and was issued on September 20, 2013 in Docket R-31106.

<sup>2</sup> Throughout these EE Rules, "utilities" is synonymous for both electric and gas utilities, unless specifically stated otherwise.

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6. Reduce the need for supply-side resource additions;
7. Reduce price volatility; and
8. Strive to expand energy efficiency throughout Louisiana,

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## II. Definitions

**Administrator (or Program Administrator)** - The person, or entity, responsible for creating energy efficiency programs or a portfolio of programs pursuant to these EE Rules. The Administrator will manage the implementation process after the programs are approved by the Commission.

**Cost-effectiveness** - A comparison of the approved categories of 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 economic.

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

**Demand Response (“DR”)** - 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 market prices or when system reliability is jeopardized. DR programs are excluded from being programs the Program Administrator can implement, as utilities are permitted to implement DR programs based on Commission General Order dated May 26, 2021.<sup>3</sup>

**Deemed Savings** - Deemed Savings are used to define energy and peak demand savings values for projects with well-known and documented savings. Deemed Savings are pre-determined, validated estimates of energy and peak demand savings attributable to energy efficiency measures whose performance characteristics and use conditions are well known and consistent. Deemed savings may be based on engineering calculations, baseline studies, and/or reasonable assumptions. Deemed savings estimates may be derived from other evaluations previously performed and conducted by

<sup>3</sup> See, Docket No. R35136, LPSC, ex parte. In re: Rulemaking to Determine Need for Rate Schedules and Programs Offering Demand Response Products, Development of Such Rate Schedules and Programs, Determination of Customer Participation in such Programs, Allocation and Recovery of Program Costs, and Whether Such Programs Shall be mandatory or Voluntary for Utilities as set forth in Sec. 3 of the Rule Adopted in General Order Dated March 7, 2019 in Docket No. R-34948. (“Commission DR Order”).

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the utility, other utilities or other governmental/regulatory agency studies. The Administrator may use these estimates when energy and peak demand savings estimated through measurement and verification (M&V) activities are infeasible or impractical. Deemed savings should be revised periodically to reflect new technologies and new federal, state, or local policies and codes.<sup>4</sup> The Commission approved the use of the Arkansas Technical Reference Manual (“TRM”) for deriving deemed savings estimates in the Quick Start Phase. Until such time that a Louisiana specific TRM is developed, the Commission continues to recommend use of the most recent Arkansas TRM in Phase II, with appropriate adjustments for Louisiana, such as adjustments for different climate zones and weather conditions.<sup>5</sup>

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**Energy Burden** – Households that are overburdened by unaffordable energy bills, which typically disproportionately affect low income, older adults, households of color, and indigenous households. Typically, these customers live in inefficient housing and face systemic barriers that limit their ability to pay for energy services.

**Energy Efficiency** – Refers to a decrease in the use of energy, while maintaining or improving the customer’s existing level of comfort and end-use functionality at 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.

**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”)** – 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** – 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 (“M&V”)** – M&V is the 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

<sup>4</sup> Note that whenever the phrase "peak demand savings" is mentioned, it applies to electric utilities, not gas utilities.

<sup>5</sup> The latest version of the Arkansas TRM, Version 9.1, was approved on October 20, 2022 in APSC Docket 10-100-R and may be found at [https://apsc.arkansas.gov/wp-content/uploads/AR\\_TRM\\_V9.1\\_Volume\\_1\\_2\\_and\\_3\\_on\\_8-31-22.pdf](https://apsc.arkansas.gov/wp-content/uploads/AR_TRM_V9.1_Volume_1_2_and_3_on_8-31-22.pdf)

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methods that can involve measurements, engineering calculations, statistical analyses, and/or computer simulation modeling with the goal of verifying the level of savings achieved.

**Low-Income Customers** – Customers whose income levels are below 200% of the most recent year’s federal poverty level.

**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.

**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.

**Portfolio** – The entire group of programs that are offered.

**Portfolio Plan** – A plan to deliver a Portfolio of EE 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** – A group of projects with similar characteristics and installed in similar applications or targeting a particular population.

**Program Year** – The calendar year in which programs are administered and delivered, for the purposes of planning and reporting.

**Public Entity** – Public Schools, public higher education institutions, local government facilities, state agency facilities, or any other public entity facility approved by the Commission.

**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 EE portfolio. Screening tests shall follow the guidelines published by the California Public Utility Commission in its *California Standard Practice Manual for Economic Analysis of Demand-Side Programs and Projects*, which was first published in February 1983, and last updated in 2001.<sup>6</sup> 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 customers receive, and any other benefits to the customer that can be

<sup>6</sup> <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/demand-side-management/energy-efficiency/idsm>

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quantified. Savings estimates should be based on gross energy savings, as opposed to net savings.<sup>7</sup> 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) Test* - 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 to implement 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 Program Administrator and the utility to implement the EE program,<sup>8</sup> the incentives paid to participants, decreased revenues for any periods in which load has been decreased, and increased supply costs for any period when load has increased. The 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).
- *Program Administrator Cost Test* – This test measures the net costs of a program based on the costs incurred by the Program Administrator and 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 this test are the incremental direct costs incurred by the Program Administrator and 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 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* – This test measures the net cost of a program based on the total costs of the program, including the participants', the Program Administrator's, and the

<sup>7</sup> Gross energy savings are the energy savings attributed to the program seen by the participant at the meter. 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").

<sup>8</sup> Most of the direct program costs will be incurred by the Program Administrator, however, it is anticipated that utilities will also incur some direct costs, and those costs should also be captured in the appropriate Screening Tests.

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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 direct program costs incurred by the Program Administrator, 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* – This test measures the economic impact to the Program Administrator, utility, service territory, state or broader region, as measured by the Total Resource Cost Test, plus indirect impacts such as environmental impacts.

Parties that desire to change the benefit-cost framework may hold discussions in the EE Working Group (“EEWG”) and may propose changes to the Commission for approval.

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### III. Program Requirements and Design

The Commission's EE Rules transition from individual utility-led programs to a consistent set of statewide programs<sup>9</sup> allowing all jurisdictional customers of Electric IOUs, Group 1 Gas Utilities, and Electric Cooperatives to participate. The statewide energy efficiency program will be administered by a Program Administrator and funded through an energy efficiency rider (“EER”). Similar to the energy efficiency rate riders implemented in the Quick Start Program, EER revenues will be collected by jurisdictional Electric IOUs, Group 1 Gas Utilities, and Electric Cooperatives from their respective customers through a line-item on customer's bills. Jurisdictional utilities are directed to fully cooperate to ensure a seamless transition from individual utility EE programs to a comprehensive statewide Commission-led program, including the creation of the EER for Commission approval.

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#### A. Program Cycle

The EE Program will be developed and implemented based on a four-year program cycle, beginning January 1, 2026. The Administrator shall design, implement, monitor/oversee, and report on a multi-year budget for the program cycle, including meeting the goals and guidelines of design and implementation described in these EE Rules. Such design, implementation, monitoring/overseeing, and reporting are at the direction of, and with the approval of, the Commission. The Administrator shall meet with Staff and Commissioners to make presentations and have discussions as frequently

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<sup>9</sup> While the Commission's EE Rules should strive for a consistent set of programs, the Administrator may propose to customize programs to groups of customers, as deemed appropriate. The Administrator should consult with and seek Commission approval for such customization changes.

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as Staff and the Commission requires, and shall provide a detailed report annually, as described further below.

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**B. Administrator and EM&V Contractor**

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Upon Commission approval, the Administrator shall be responsible for developing and managing natural gas and electric EE programs on a statewide basis. Once an EE program is approved by the Commission, the Administrator will continue to coordinate and seek Commission approval, as necessary, throughout implementation of the four-year program cycle. While retaining an Administrator shall be in accordance with the Commission's RFP process pursuant to the Commission's General Order dated November 10, 2014 (Docket No. R-33197), potential applicants shall not be limited to the Commission's Qualified Consultant list and are anticipated to be selected from a broader pool of applicants with experience and expertise in energy efficiency. Further, in addition to an RFP process, it is anticipated that an RFQ process will precede the RFP process. Past and present EE program administrators are not prohibited from submitting qualifications and proposals to the Commission's RFQ/RFPs.

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The Administrator's EE Program and Budget Cycle Plan, discussed further below, shall detail the program goals, strategies, plans and budgets, and shall discuss customer transformation activities, and other program services that the Administrator will implement after Commission approval. The Plans shall detail the specific program objectives, including quantified energy savings (annual and lifetime), peak demand savings, budget allocations by program, including budget allocations serving low-income customers and other targets for customer equity, cost-effectiveness, and customer transformation activities. The Plans shall discuss the economic and environmental benefits the Administrator expects to achieve, and explain how programs will be designed to reach as many LPSC jurisdictional customers as possible. The Plans shall include baseline assumptions and information about the strategy that will be employed to implement programs.

Further, to provide checks and balances and enhanced program accountability, the Commission shall retain an EM&V Contractor, independent from the Administrator, to determine actual savings and other effects from the Commission's EE program, and provide meaningful and detailed recommendations on opportunities for achieving efficiency savings through existing and potential new program offerings. The EM&V Contractor will be responsible for developing and filing EM&V plans for Commission approval prior to the start of each budget cycle, which shall provide details on how the EM&V contractor will evaluate the program design, implementation, cost effectiveness, and verification of savings achieved. As with the Administrator, the EM&V Contractor shall be retained through a formal RFQ/RFP process, and while pursuant to the Commission's General Order dated November 10, 2014 (Docket No. R-33197) potential applicants shall be through a broader pool than the Commission's Qualified Consultant list. Past and present EM&V contractors are not prohibited from submitting qualifications and proposals to the Commission's RFQ/RFPs.

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The Commission will conduct an RFQ/RFP hiring process for both the Administrator and EM&V Contractor at least at the end of every two program cycles. The existing Administrator and EM&V Contractor may participate in any RFP issued by the Commission, and is not limited to a set number of program cycles.

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While the Administrator and EM&V Contractor shall be retained through the Commission's RFQ/RFP process, these contractor's budgets shall be considered within the total overall EE budget, as discussed herein and approved by the Commission.

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Additionally, the Commission will require an independent audit be performed. The audit will review not only the program costs incurred by the Administrator and other parties, but also revenues collected by the utilities and managed by the Administrator. See additional discussion of the Audit process in Section IV below.

**C. Savings Targets**

Prior to the start of each four-year budget cycle, the Administrator shall design a program that aligns with the Commission's objectives described herein, and seek Commission approval of the proposed EE program. The Administrator shall have a goal of reaching a specified annual incremental energy savings target as compared to the average of each utility's total energy sales over the past five years (subtracting out opt-out energy) as reported in the Electric Utility's FERC Form 1, Cooperative Electric Utility's Rural Utilities Services Form 7, or Gas Utility's FERC Form 2-A. The energy savings target should be based on the previous five-year's energy sales data for which data is available prior to the start of each budget cycle (e.g., energy and gas sales data for 2020 to 2024 may be used for the 2026-2029 program cycle).

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For electric and gas IOUs, by the end of the first year of the first budget cycle, the energy savings goal shall be to achieve a minimum energy savings target of 0.4% of the average of the previous five-year's energy sales, and the energy savings goal shall increase by 0.05% each year within the budget cycle, with the goal of achieving 0.55% by the end of the first budget cycle. For electric cooperatives, which are much smaller utilities and did not participate in the Quick Start phase, by the end of the first year of the first budget cycle, the energy savings goal shall be to achieve a minimum energy savings target of 0.1% of the average of the previous five-year's energy sales, and the energy savings goal shall increase by 0.05% each year with the budget cycle, with the goal of achieving 0.25% by the end of the first budget cycle.

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During the first four-year cycle, and during each successive budget cycle, the EM&V Contractor shall conduct an EE utility-wide potential study ("Potential Study") to determine potentially achievable energy savings for each utility to assist the Commission in setting savings goals in future years. Utilities will be required to fully cooperate with this process by providing information to the EM&V Contractor as needed to complete the Potential Studies. The energy savings goals for future

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budget cycles will be established and approved by the Commission at a later time, taking into consideration the results from the first budget cycle, the results from the Potential Study, and results from recent IRPs, for those utilities that have conducted IRPs.

**D. Minimum Criteria for Cost-Effectiveness**

The Total Resource Cost (“TRC”) test shall be the primary test used for determining cost effectiveness for the Commission’s EE programs. The Administrator shall evaluate the cost effectiveness of its proposed programs and must demonstrate that the portfolio of programs as a whole is cost effective using the TRC test. The TRC test will consider all electric and gas savings. Quantifiable non-energy benefits may also be considered, subject to Commission approval. At a minimum, the Administrator’s entire portfolio of EE programs must equal or exceed a 1.0 TRC requirement each year, though it is preferable for each individual program within a portfolio to have a benefit cost ratio of at least 1.0. EE programs shall be reported at the program and portfolio levels, as well as at any other sub-program levels.

The Commission retains the authority to approve programs that, by design, will not meet or exceed a 1.0 TRC, including possibly low-income programs. Justification for all programs that do not exceed a 1.0 TRC must be provided to the Commission.

Should any party desire to replace the TRC test with some other test, that test should be discussed in the EEWG, with the Administrator seeking Commission approval for such a change in the cost effectiveness test.<sup>10</sup>

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**E. Program Design and Implementation**

**1. Budget Cycle Plans**

Prior to the start of each four-year budget cycle, the Administrator shall prepare and submit for approval to the Commission the Budget Cycle Plan for the upcoming four-year cycle, consistent with these Commission EE Rules. The schedule for the Budget Cycle Plan is discussed in the Approval Section below (Section III.E.4) and in the Timeline of Activities (Attachment B). If necessary, the Administrator may submit an update to the Budget Cycle Plan to the Commission for approval, detailing any revisions specific to the upcoming plan year, such as changes to incentive levels, changes to expand or discontinue programs, or changes to move funds from one program to another. The Administrator shall include, at a minimum, the following details in the Budget Cycle Plan:

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- A list of EE programs it plans to implement.

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<sup>10</sup> The EE Working Group is discussed in Section IV below.

- Estimated budgets for its programs and portfolios as a whole.
- Cost effectiveness analyses of its programs and portfolio as a whole.
- Estimated kWh annual and lifetime savings, summer and winter peak capacity savings, and lifetime customer total resource benefits.
- Program Implementation plans.

In addition, prior to the start of each budget cycle, the EM&V Contractor shall prepare and submit for approval to the Commission the EM&V Plan for the upcoming four-year budget cycle. If necessary, the EM&V Contractor may submit an update to the EM&V Plan to the Commission for approval, detailing any revisions specific to the upcoming plan year. The EM&V Contractor shall include the following details in the EM&V Plan:

- Evaluation budget for the budget cycle, (not to exceed 4% of total program budget).
- Process for conducting ex post EM&V impact evaluations.
- Approach to performing process evaluation of program implementation (customer satisfaction, leveraging trade allies, marketing and outreach, etc).
- Key dates for EM&V activities.

As directed by the Commission, the EM&V Contractor will also be expected to perform additional studies from time-to-time that shall also be discussed in the EM&V Plan. One potential study will be for a Louisiana-specific TRM. Early in the first budget cycle, the EM&V Contractor shall be responsible to coordinate with the Administrator and the EEWG to evaluate whether a Louisiana-specific TRM would be beneficial for Louisiana customers. If it is determined it would be beneficial, then the EM&V Contractor shall be responsible to coordinate with the Administrator and the EEWG to produce and seek Commission approval of a Louisiana-specific TRM by the end of the first budget cycle.

## 2. Budget Cycle Program Allocations

To develop the Budget Cycle Plan, budgets shall be allocated to various customer classes. Prior to the start of each budget cycle, the Administrator shall meet with each Commissioner and Commission Staff to understand the specific goals and types of EE programs that are important to each Commissioner and work to include said priorities in the finalization of the EE program. The Administrator is expected to have a thorough understanding of the Commissioners' objectives for the allocation of energy efficiency budgets, and the budget allocations will be approved by the Commission. For example, budgets may be allocated to categories including, but not limited to:

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- Low Income Residential Programs and/or Programs for Customers with High Energy Burdens<sup>11</sup>
- Public Entities
- Residential Programs
- Commercial Programs
- Industrial Programs

Stakeholders in Docket No. R-31106, including participants in the EEWG, may also submit recommendations to the Administrator for additional program categories to be considered. While the Administrator shall develop budget allocations based on Commissioner priorities as much and as reasonably possible, the Administrator is encouraged to provide Commissioners with guidance based on the Administrator's industry knowledge and expertise to ensure the overall EE portfolio is reasonable, cost effective, and meets the Commission's goals stated above in Section I.

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An important objective that shall be adhered to is that programs should be designed such that funds collected within one utility's service territory should be expended on EE programs for customers within that service territory, and funds collected from residential and non-residential customers should be expended on programs for those customers roughly in proportion to the amount of funds collected from those customers. The Administrator shall provide information to Staff and Utilities to allow tracking of funds spent by service territories and Commission districts.

As budgets are developed, budget flexibility should be considered to address customer equity objectives, to develop programs for certain target markets, and/or to shift budgets within a range, or over a number of years. Other parameters to be considered may include fund-shifting between programs (funds shall not be shifted between residential and non-residential programs), and other spending requirements to address equity considerations.

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Once the budget allocations are set and approved by the Commission, the Administrator shall present the Budget Cycle Plan and EE program design for Commission approval along with an estimate of anticipated rate and bill impacts.

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3. Public/Private Collaboration

The Administrator shall coordinate and collaborate with stakeholders including contractors, the EM&V Contractor, program participants, Commission Staff, utility companies, government organizations, businesses, professional and trade associations, and trade allies, for purposes of

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<sup>11</sup> When designing programs for Low Income Customers, the Administrator should consider designing programs to reduce those customers' energy burden.

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leveraging work, reducing duplication, fostering innovation, and efficiently delivering energy efficiency services in Louisiana.

The Administrator will also coordinate its efforts with other public and private program efforts, at the local, state, regional, and national levels related to the adoption of cost-effective energy efficiency measures and practices, including efforts to facilitate the development of independent funding mechanisms that leverage non-Program funds. For example, the Administrator should examine all opportunities for grants, and other funding opportunities that may be available from the Infrastructure and Jobs Act (“IIJA”) that was signed into law on November 15, 2021, and the Inflation Reduction Act (“IRA”) that was signed into law on August 16, 2022. Other state, regional or national initiatives or organizations may emerge in the future. The Administrator will be expected to evaluate the potential benefits of those efforts, coordinate with entities as necessary, and support and participate in those efforts as necessary, under the Commission’s direction.

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The Administrator's coordination and collaboration efforts shall include education and training of entities and/or market participants, subcontracting for the delivery of services, cooperation regarding service delivery, and/or other means of coordination and collaboration. The Administrator shall be expected to provide coordination and collaboration plans, as required by the Commission. Additional funding for energy efficiency generated through coordination with other public and private efficiency programs are additive, and should not be considered a replacement for Commission programs.

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#### 4. Approvals

As mentioned above, prior to the start of each four-year cycle, the Administrator shall prepare budget cycle allocations, which shall be submitted for approval at the January B&E Session. Once the Commission approves the budget cycle allocations, the Administrator shall design and submit to the Commission Budget Cycle Plans for the upcoming four-year cycle that will contain plans, budgets, cost-effectiveness evaluations, etc. Both the Administrator’s and the EM&V Contractor’s plans shall be filed with the Commission by May 1, prior to the start of each budget cycle. The Budget Cycle Plans shall be docketed and noticed in the Commission’s Official Bulletin for stakeholder participation. This participation shall not be to object to the statewide Administrator approach, but to assist in refining the Administrator’s proposed portfolio to best fit Louisiana customer’s needs. After the Commission approves the Budget Cycle Plans, by the October B&E Session, the Administrator shall make a final compliance filing containing the detailed program plan and implementation strategy for the first program cycle by the end of November, prior to the start of each budget cycle.

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Within the four-year budget cycle, when necessary, the Administrator and EM&V Contractor shall prepare and submit updated annual plans to the Commission, for approval, detailing any revisions to the approved plans by June 1, with the goal of Commission approval at the November Business

and Executive (“B&E”) Session. These revised plans will be filed into the docket, though any revisions to the original four-year program plans are expected to be minimal.

**F. Budget and Cost Recovery**

**1. Program Budget**

Prior to the start of the first four-year budget cycle, the proposed budget for each year within the budget cycle should be established on no more than 1.5% of the average of a utility’s five most recent years’ revenue (e.g., revenue data for 2020 to 2024 may be used for the 2026-2030 Program Cycle), accounting for excluded revenue associated with opt-out customers.<sup>12</sup>

Proposed budgets for future four-year cycles will be revised based upon how successful the prior four-year cycles are in achieving the Commission’s EE goals, while balancing the impact to customers, and based on results of any IRP analyses performed, the Potential Studies performed to determine potentially achievable energy savings across the state and/or in response to customer market demand.

The Commission’s goal will be to approve proposed budgets for each four-year cycle by the October B&E Session in advance of each new budget cycle term (for example, by the October 2025 B&E Session). In the event a majority of the Commission cannot approve the proposed budget after the first budget cycle, the Administrator shall continue to use the prior cycle’s budget. While there is a budget for each four-year cycle, should program modifications/budget reallocations be necessary to annual budgets for a given program year, the Commission must approve those adjustments.

The Commission’s EE Program funds shall be allocated by the Commission according to utility service territories and Commission Districts, such that there is roughly proportional distribution throughout the LPSC Districts over the four-year cycle, and any monies collected from a utility are utilized for the customers of that utility through the Commission’s EE program. Revenues collected by jurisdictional utilities through the EER shall be maintained by the respective jurisdictional utility until notified by the Administrator that an EE project has been completed and that funds can be released. The Administrator, with the assistance of the respective utility, will be responsible for tracking and reporting revenues collected by utility service territory and Commission district to ensure revenues collected by a utility are being utilized for the benefit of that utility’s customers, and that the revenues are being roughly proportionally distributed to the LPSC districts within the utility.

At the end of each four-year budget cycle, if excess EE funds have been collected from customers that have not been fully used, a utility may request that the Commission pause any further collections until the previously collected funds are used in accordance with the EE programs in existence.

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<sup>12</sup> See Section IV below for more information concerning opt-out requirements.

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## 2. Administrator and EM&V Contractor Budget

The budget for the Administrator and EM&V Contractor shall be included within the overall budget of the Commission's EE program. It is the Commission's goal to minimize all administrative costs, and to maximize customer incentives, as much as possible. In order to minimize administrative costs, the Administrator and EM&V Contractor will be selected through a competitive procurement process in order to identify the most qualified and cost-effective consultants for Louisiana customers. The Commission's goal of minimizing administrative costs shall be emphasized in any RFP bid documents sent to prospective Program Administrators and EM&V Contractors, and will be part of the Commission's consideration of any consultant who provides a bid proposal in response. Additional program performance incentive payments will not be allowed under the Commission's EE program; however, a portion of the Administrator's costs will be held "At Risk" for meeting energy savings goals, customer satisfaction objectives, on time payments of incentive funds, etc. Other than the "At Risk" payments, compensation of the Administrator and the EM&V Contractor shall be based strictly on the proposed costs included within the respective RFP bids. Additional specifications of the payment requirements will be specified in the bid documents in the bid solicitation process.

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With regard to financial management, the Administrator must maintain financial and accounting records consistent with general accounting standards, and must develop, implement, and maintain the necessary budgeting and financial accounting systems to ensure the EE programs are implemented efficiently.

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The Program Administrator shall also render an invoice on a monthly basis to utilities for implementation services that trade allies have performed and billed to the Program Administrator and that the Program Administrator deems completed. All Program invoices will be paid in full when funds are available.

## 3. Energy Efficiency Rider

To the extent possible, jurisdictional utilities should cooperate to create and seek approval of uniform EERs - one for Electric IOU Utilities, one for Group 1 Gas Utilities, and one for Electric Cooperatives. Utilities should seek approval for uniform EERs in a joint filing submitted to the Commission by no later than April 1, 2025. However, the uniform rate riders can be adjusted to meet a specific utility's needs. The electric utilities must comply with Commission General Order dated July 1, 2019 when submitting an EER for approval. If the EER would result in a change in rates charged by the respective utility, then Section 501(B) of Commission General Order dated July 1, 2019 shall be followed. Individual utilities must seek Commission approval for any utility specific adjustments they would like to implement.

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The EER rate shall be designed to recover the entire EE budget, including the Administrator and EM&V Contractor costs, incentive payments to customers and trade allies, recovery of the utility's direct costs, and the utility's Lost Contribution of Fixed Costs ("LCFC"). A utility's recovery of direct costs and LCFC is further described in the next section. The EER rate shall be adjusted by utilities in a reconciliation filing made by May 1 after the end of each program year, to the extent that an over or under-collection of costs occurred. Each utility shall calculate any carrying costs on the under/over-recovered costs at the Prime Interest Rate or the utility's respective short-term debt rate, whichever is lower.

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Each utility shall file supporting workpapers with the reconciliation filing, with working spreadsheets, all formulae intact, and no hard-coded values. In addition to having a uniform rate rider, documentation, including supporting workpapers, shall be standardized amongst all utilities (at least among utility categories), and the utilities shall be required to collaborate to propose such standardized documents to the Commission for approval by April 1, 2025, and this approval shall be sought from the Commission at the same time that utilities seek approval for the uniform EER Rate Riders.

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4. Utility Cost Recovery

Utilities are allowed to recover their direct costs in facilitating the collection, retention, and implementation of the EER through the EER. Utilities are allowed to recover LCFC costs based on the actual energy savings derived by the Administrator pursuant to an earnings test being performed. If a utility has a Formula Rate Plan ("FRP") or a Rate Stabilization Plan ("RSP") that allows for an annual reset of rates, LCFC should be reviewed within the utility's annual review and recovered via the EER rider, as indicated below.

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For a utility that has an approved FRP/RSP in place that allows for an annual reset of rates, it shall be permitted to recover its LCFC costs if the EE program caused the utility to underearn, i.e., below the lower end of the utility's earnings deadband. Because LCFC revenues are not accounted for in a utility's FRP/RSP annual review, another evaluation shall be performed after the annual review has been completed to determine if as a result of having EE programs, the utility under-recovered its allowed revenues. If a utility has earnings that are below the bottom of its earnings deadband as a result of the Commission's EE programs, the utility shall be entitled to recover the amount of LCFC revenue that allows the utility to meet the lower end of the deadband. If an adjustment for LCFC revenue has to be made, such an adjustment, with interest (accrued beginning from January 1<sup>st</sup> of the prior Plan Year), shall be accounted for at the time that the utility's next EE rate redetermination process occurs in order to reset its EER rates accordingly. Interest shall be calculated using the Prime Interest Rate or the utility's respective short-term debt rate, whichever is lower, and shall only apply to the adjusted amount for the period of time between the effective date of the EER and the FRP/RSP.

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Utilities that do not have an FRP/RSP in place that allows for an annual reset of rates, may accumulate LCFC costs until base rates are reviewed in a base rate proceeding, at which time the effects of the EE programs will be considered; however, the accumulation of LCFC costs shall not be permitted to accrue for utilities with no approved FRP/RSP for longer than three years.

**G. Program Reporting**

The Program Administrator and the EM&V Contractor shall each be responsible for developing and filing annual post plan year reports by April 1<sup>st</sup> after the end of a plan year, as described below.

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1. Program Administrator – Annual Reports

- a) Program descriptions, customer classes the programs apply to, participation rates, activity, and objectives for the programs.
- b) The same Standard Annual Reporting Programs (“SARP”), as had been provided by electric utilities through the Quick Start program. These reports should be provided electronically, with all formulae intact. All avoided cost assumptions should be readily available, though some of the information may be treated confidentially.
- c) Implementation issues, such as barriers against increased participation.
- d) Recommendations for program improvements.
- e) Efforts by the Administrator 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).
- f) Marketing, communication, media coverage.
- g) Actual and budgeted expenditures, broken out by customer classes, LPSC district, and service territory, and by the following cost components: (a) administration and planning; (b) promotion and advertising; (c) customer incentives; (d) delivery and vendors; (e) participant contributions; and (f) monitoring and verification.
- h) Actual and budgeted energy savings (gas savings in case of a gas utility), broken out by customer classes and service territory.
- i) Actual and budgeted peak demand savings (gas savings in case of a gas utility), broken out by customer classes and service territory.
- j) Comparison of budgeted and actual costs of EE program to total utility revenue.
- k) Comparison of budgeted and actual energy savings to total utility sales energy.
- l) Program customer incentive payments, broken out by customer classes and by program.
- m) Participants' costs. Since tracking may be difficult, estimates may be provided.

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- n) Annual and cumulative present value of benefits, costs, net benefits, and benefit/cost ratios, based on the primary TRC test, but also provide the RIM, Program Administrator, and Participants test results.
- o) Discussion of LCFC costs charged to customers based on actual energy savings derived by the Administrator.
- p) Discussion of the EE projects that are ongoing and planned by Commission district.
- q) To the extent the Commission deems it necessary, the Administrator shall be responsible for reporting to organizations beyond the Commission including EIA, ACEEE, etc.

2. EM&V Contractor – Annual Reports

- a) Summary of EE program options offered, and a description of the general evaluation methodologies.
- b) Verified savings evaluation. Evaluation of capacity and energy savings, both estimated and realized.
- c) Verified cost evaluation. Evaluation of all costs spent, both estimated and realized.
- d) Verified cost effectiveness evaluation. Cost effectiveness evaluation, both estimated and realized.
- e) Process Findings – Program changes and developments, customer satisfaction surveys, evaluation findings and conclusions.
- f) Recommendations – Recommendations for program design and implementation improvements.

The Administrator and EM&V Contractor should be available upon request to answer any questions of the Commission and/or Commissioners related to the EE program. Further, the EM&V contractor should assist the Administrator to achieve greater energy and cost savings.

**IV. Miscellaneous Provisions**

**A. EE Working Group**

1. Working Group Goals

The Commission will establish the EEWG, including the participants therein. While there is no set limitation on the number of participants, the Administrator shall seek participation of parties that have appropriate experience with EE programs, and shall consider having at least minimum representation on the EEWG that includes utilities participating in the EE program, trade allies, other state agencies, low-income advocacy groups, and intervenors and interested parties participating in

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Docket No. R-31106. Further, there will be no compensation for stakeholder participation in the EEWG. The first meeting of the EEWG shall be held prior to July 1, 2024 with a main goal being to determine whether the EEWG shall establish protocols, including the frequency that the EEWG will meet, whether sub-committees should be established, and whether voting rights should be established.

The Administrator shall also coordinate the activities of the EEWG, with guidance and direction from the Commission, and further the goal of providing input regarding the design and implementation of EE programs, and to recommend, when appropriate, changes to either the EE Rules or specific EE programs over time. The EEWG shall not replace or circumvent the Commission's Rules of Practice and Procedure, or policy, related to review, evaluation, and revisions to Commission's Orders and Rules. As appropriate, the Commission may open a docket to allow public input and consideration of topics stemming from the EEWG, which will adhere to the Commission's Rules of Practice and Procedure.

The EEWG (by way of the Administrator) shall issue an annual report to the Commission, including details of the topics taken up by the EEWG, any recommendations for updates to EE programs or the EE Rules, and proposals for future topics for the EEWG to consider.

2. Development of Technical Reference Manual

During the Quick Start Program, utilities relied on the Arkansas TRM, which includes a list of all measure characterizations and assumptions that were used for determining measure eligibility, and for calculating energy savings for approved EE projects. While the Arkansas TRM should continue to be used when Phase II of the EE program begins, the EM&V Contractor, in collaboration with the EEWG and the Administrator shall investigate the benefits of developing a Louisiana specific TRM. If a Louisiana specific TRM is found to be desirable, then the EM&V Contractor should seek Commission approval for developing the Louisiana specific TRM. Should the Commission approve the development of a Louisiana TRM, the EM&V Contractor, in consultation with the EEWG and the Administrator, shall develop the TRM for Commission approval, and upon approval, maintain the TRM, updating it on an annual basis, as necessary.

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**B. Trade Allies**

The Administrator shall partner with or hire trade allies that are licensed and experienced with EE programs to ensure customers receive quality service when they participate in the Commission's EE program. In implementing the Commission's EE program, the Administrator shall make all reasonable efforts to utilize local, verified trade allies, and in particular, to continue to rely on trade allies that have assisted in the implementation of Phase I Quick Start programs, assuming those local trade allies can deliver services more efficiently, cost effectively, and/or with a higher degree of quality.

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The Administrator shall work with trade allies to implement EE projects within a utilities' respective service territory, including to ensure quality performance and completion of projects. The Administrator should ensure that payments are made to all trade allies on a timely basis upon completion of EE projects. It will be the responsibility of the trade ally to demonstrate to the Administrator that an EE project is one hundred percent (100%) complete.

**C. Transition Period**

During the Transition Period in 2024 and 2025, the Administrator, with the Commission's guidance, shall be responsible to develop and manage a plan to transition from the utility-led Quick Start Efficiency Program to the new Commission-led statewide EE program with as little disruption as possible for trade allies, suppliers, customers, and utilities. Such plan shall be presented to the Commission for approval. Jurisdictional utilities are expected to fully cooperate and support the transition, and utilities will continue to recover their costs during the transition period as they did during the Quick Start Phase.

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The Administrator shall be granted secure and confidential access to customer information and data relevant to implementing a successful EE program, such as but not limited to, kWh usage and likely billing assistance program participants so that the Administrator may understand where the greatest need for EE is within a utility's footprint. The Administrator should include information about the relative cooperation and collaborative data sharing by each utility in the Administrator's annual report.

Also, during the Transition Period, utilities shall continue to maintain Quick Start Residential and Commercial programming at existing budget levels through the 2025 calendar year, and shall work closely with the Administrator to transfer information and to communicate with customers and trade allies about the transition.

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**D. Legacy Public Entity Programs**

Public Entity programs will continue to exist under the statewide EE program; however, the overall budget for Public Entity programs will be determined as part of the budget allocation process. Nothing prohibits two or more Commissioners from working together, including combining EE program funds, to complete an EE project. As described further in Section III.E.I., the Commission will determine how much budget will be allocated to all categories, such as public entities, low-income, or other categories of programs.

Once an overall budget is established, the Public Entity Program will operate as the program did under the Quick Start Rule, including the means by which the overall budget is allocated between Commission Districts, applications being received from interested public entities, Commissioners having input in the applications selected, and one main goal being to replace out dated equipment

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and fixtures with new, more efficient equipment and fixtures to reach a desire energy consumption reduction.

Any Commissioner who no longer desires to have direct implementation of Public Entity programs within his respective district may request the Administrator utilize that Commissioner's budget allocation to develop and implement EE programs for public entities within that Commissioner's district. If a Commissioner selects this option, the Administrator shall implement programs within that Commissioner's district that are designed toward public entities.

Given the Public Entity program will be a part of the overall statewide EE budget, there is no longer the need for a separate rate rider for Public Entity program costs. For Phase II, one uniform rate rider for Electric IOUs, Group 1 Gas Utilities, and Electric Cooperatives will be established, which will include the costs of the Public Entity program.

Further, given the Public Entity program will be a component of the statewide EE program, all responsibilities that were previously performed by Commission Staff related to the Public Entity program will transition to the Administrator.

#### ***E. Fuel Switching***

The Commission's EE program prohibits any offerings that encourage customers to switch from electric to natural gas or from natural gas to electric appliances and services as a marketing initiative. However, every effort should be made to coordinate the delivery of both gas and electric efficiency improvements to dual fuel customers. In the future if decarbonization becomes mandated at the Federal or State level, or if it becomes a policy of the state to promote decarbonization, the Commission reserves its right to revisit this prohibition to determine whether strategic marketing programs involving fuel switching are desirable. If such a Federal or State mandate or policy goes into effect, stakeholders may encourage the Commission to reconsider this issue at that time. For example, parties may evaluate the impacts of the Infrastructure Investment and Jobs Act ("IIJA") and Inflation Reduction Act ("IRA") in considering if any changes should be made to this policy.

#### ***F. Industrial Opt-Out***

Industrial customers of the jurisdictional Electric IOU and Group 1 Gas Utilities will have the option to opt out of the EE Program. In order to allow the Commission, the Administrator, and the respective utility the opportunity to account for such customers in developing the EE program and corresponding budgets, existing customers must provide written notice to the Commission, via the Administrator and the customer's respective utility provider no later than April 1, prior to the start of the four-year program cycle. Customers who opt out are not eligible to participate in the Commission's EE programs. A customer who has previously opted out that choses to opt back in can only do so at the start of the next four-year program cycle, and must remain opted in for the full

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budget cycle. The means by which opt-out notice will be given will be consistent with the way it was done during the Quick Start phase.

For new customers that begin receiving service in any given year after the opportunity to opt-out has passed, the notice requirement is modified such that the new customer must provide written notice of the decision to opt-out within thirty (30) days of receiving service.

The following opt-out provisions will be in effect at the start of the Commission's EE program; however, these rules may be revised in the future, at the discretion of the Commission. The Commission reserves the right to further evaluate the opt-out policy and may revise it at a later time.

**Electric:** Industrial customers having one or more individual electric service accounts within a utility service provider's service territory with a combined aggregate demand of five thousand (5,000) kW or more may elect to be excluded from participation in the EE program administered by the Commission for all of their accounts within that utility service provider's territory, and from all costs associated with such program. However, if such a customer does not elect to opt-out, they are considered a participant in the EE program and will be assessed the EER rate. Only customers with annual peak loads equal to or greater than two hundred (200) kW, located within a utility's service territory, may aggregate. To be clear, the aggregation procedures are to remain the same as existed during the Quick Start phase.

**Gas:** Industrial customers having one or more individual natural gas service accounts within a utility service provider's service territory with a combined aggregate demand of seventy thousand (70,000) MMBtu or more may elect to be excluded from participation in the EE program administered by the Commission for all their accounts within that utility service provider's territory, and from all costs associated with such program. However, if such customer does not elect to opt-out, they are considered a participant in EE program and will be assessed the EER rate. Only customers with annual usage equal to or greater than fourteen thousand (14,000) MMBtu, located within a utility's service territory, may aggregate. To be clear, the aggregation procedures are to remain the same as existed during the Quick Start phase.

### **G. Information Management System and Data Confidentiality**

#### 1. Information Management System

During the Transition Period, and with the cooperation of utilities, the Administrator shall create or contract services to implement an information management system.

It is understood that utilities and their current program administrators have been collecting and analyzing data, including from subcontractors, such as customer data, usage information, program measures, trade data, program results, etc., and have been storing data electronically in database format. The current Quick Start Program databases and tools used by utilities for their current EE

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programs shall be made available to the incoming Administrator. The Administrator shall be responsible for any monthly operational fees and duties to either continue operation of any databases currently used, or to transition to another system that shall provide substantially similar tasks, reports, and functionality. These costs will be included as part of the EE budget.

The Administrator's information management system shall maintain the list of customers interested in participating in the Commission's EE program, and the Administrator shall select customers for non-Public Entity Program implementation based on when the customer signed up; in other words, on a first-come, first-serve basis. The information management system should follow a participant from sign-up to completion of the respective EE project, and store the data as needed for the EM&V Contractor for a period of time that suffices the EM&V Contractor's review, reporting in their required evaluations, and Commission oversight. The record retention for data stored in the information management system shall be for the entire four-year budget cycle plus seven years thereafter.

In addition to tracking and maintaining participation data, the information management system should also be used for other purposes, including EM&V assessments, financial analysis, managing program services and operations, research and program strategies, program modification and improvements, reporting, etc. The Commission also envisions that the data will assist in the identification and characterization of customer classes, and ultimately to develop innovative scalable, and sustainable programs and services.

Administrative and financial records included in the information management system should be data consistent with the needs outlined in these EE Rules, and with Generally Accepted Accounting Principles ("GAAP") as defined by both the Governmental Accounting Standards Board and the Financial Accounting Standards Board. This includes systems to track general project management, invoicing, payroll and subcontractor payments, and to produce the necessary reports for monitoring these tasks.

At any time, upon request of the Commission and/or Staff, the Administrator should have the capability of providing reports on the total number of participants signed up, approved projects not yet complete, completed projects, and the total amount of budget expended in any given year as allocated by District and jurisdictional utility, as well as the remaining budget. The system should also have the ability to produce ad-hoc reports for periodic information requests from the Commission and/or Staff. Further, upon request, the Administrator shall make reasonable, non-confidential, data and information available to the utilities.

The Administrator's informational management system and the data contained therein will be the property of the State/Commission, and shall be maintained in a relational database format and organized such that the Administrator can access and utilize necessary information for performing

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program assessment tasks. The Administrator shall maintain current, clear documentation describing data fields, database structures and interactions, and other information sufficient to enable a third-party to understand, access, use, and transfer data.

## 2. Data Confidentiality

To the extent that any information required to be provided by the Commission's EE Rules is provided to the Federal Energy Regulatory Commission or any other public agency, and is published, reported, or otherwise disseminated outside of the Administrator or the utilities or is otherwise a matter of public record, it will not be considered proprietary or confidential or trade secret information. 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 General Order dated August 31, 1992.

The Administrator must develop, manage, and maintain systems that provide appropriate protections in the collection, processing, storage and retrieval of customer-specific information or information that could provide an unfair competitive advantage to an entity delivering services outside of the energy efficiency programs approved by the Commission for Administrator implementation. The Administrator is responsible for managing such systems, and when appropriate, providing the information to subcontractors, regulators, approved third-parties, and utilities. Appropriate non-disclosure agreements shall be executed with the utilities for protection of customer-specific information.

### **H. Audit Procedure**

For the first budget cycle, the Commission will require an independent audit to be performed following the completion of the second plan year. For future budget cycles, the Commission will require audits to be performed at the end of each budget cycle. The audit will review not only the program costs incurred by the Administrator, but also revenues collected by the utilities and managed by the Administrator, as well as the EM&V costs incurred. The Auditor will be selected through a competitive solicitation process, and the Auditor's costs will be included with the overall budget of the Commission's EE program.

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The Program Administrator, EM&V Contractor, and the jurisdictional utilities must maintain records to support their costs for a period of at least seven years from the end of the Budget Cycle. In addition, should any audit of an EER Rate become the subject of a Commission investigation, all documents pertaining to those costs must be maintained by the Program Administrator, EM&V Contractor, and the utilities until all final appeals of any Commission action have been exhausted.

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### **I. Rule Revisions**

The EE Rules recognize specific adjustments may be desired or necessary over time, which may

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require revisions or separate rules/orders addressing a narrowed area within energy efficiency. These adjustments will be determined on a case-by-case basis, and considered by the Commission. Upon request, or upon its own action, the Commission may review and analyze these EE Rules, the EE program, or specific EE project(s) at any time in the future. Such review and analysis will follow the Commission's Rules of Practice and Procedure, including initiating a new docketed proceeding, allowing for public participation, and may result in rule revisions or separate orders.

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**Service List for R-31106  
as of 12/1/2023**

**Commissioner(s)**

Foster L. Campbell

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