

## BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION

### 25x'25 INITIATIVE

#### **DOCKET NO. 2010-AD-2; PROPOSAL OF THE MISSISSIPPI PUBLIC SERVICE COMMISSION TO POSSIBLY AMEND CERTAIN RULES OF PRACTICE AND PROCEDURE; ORDER ISSUING PROPOSED RULES**

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At this time of continuing national economic recovery, energy efficiency should be our highest priority energy resource and the energy option of first choice. Increasing the efficiency of how we use and produce our energy will:

- Lower energy bills for consumers and improve the competitiveness of businesses.
- Improve our state and national energy security.
- Stabilize energy prices for consumers and base load generators.
- Reduce the need for construction of new generation capacity.
- Enhance electrical and natural gas system reliability.
- Reduce air pollutants and other emissions.

Mississippi does not have a comprehensive energy efficiency/conservation plan that would produce significant economic and environmental benefits while providing customers with cost savings information and choices. Consumers want to be in control of their energy consumption and energy efficiency programs should be a substantial part of the strategy to meet customers' future energy needs. Consumers should be provided multiple tools that allow them to be better stewards of their power consumption.

The Mississippi Public Service Commission has taken up the challenge of developing a rule that implements the proper mix of technologies, programs and incentives that will help reduce overall energy demand and deliver positive results. According to the DOE's Energy Information Administration, Mississippi ranks 31<sup>st</sup> in population, 50<sup>th</sup> in per capita income, and 12<sup>th</sup> in per capita energy consumption. Much of this total energy consumption is due to transportation fuels use and industrial needs, but our stock of older housing and the lack of statewide building energy codes and other programs contribute to high per capita electricity use.

In September 2012, the American Council for an Energy-Efficiency Economy (ACEEE) released its *2012 State Energy Efficiency Scorecard*. In this report, Mississippi is ranked 51<sup>st</sup> in overall energy efficiency (the listing included Washington, DC). Mississippians have some of the highest expenditures on energy as a percentage of median household income in terms of electricity and total energy. [Vermont has the highest expenditures in terms of total energy; though there's not much of a difference between 6.1% (VT), 6.0% (AL) and 5.9% (MS)]. Mississippi has the lowest household median income in the country, and nearly the highest energy expenditures as a percentage of household income. Average electricity rates in Mississippi are in the bottom half of the U.S. average, but Mississippians' average annual electricity bills are considerably higher than states investing more in energy efficiency. So despite higher electricity rates in states like Vermont and California their average annual bills

are lower. While we are sensitive to rates, Mississippi customers ultimately pay bills and our bills are above the national average.

Some of our neighboring states (Arkansas and Louisiana) have embraced energy efficiency and the adoption of effective policies. The Mississippi Public Service Commission has recognized this disparity and should be commended for taking the initiative to examine the various energy efficiency policies, regulatory actions, and necessary standards that will further recognize energy efficiency as an energy resource in Mississippi.

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### **Comments on the Economic Impact Statement of the Mississippi Public Service Commission's Proposed Energy Efficiency Rules, Docket No. 2010-AD-2**

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The 25x'25 Initiative supports the findings of the Economic Impact Statement (EIS), which successfully indicates that energy efficiency programs will have a positive impact on the Mississippi economy, resulting in savings and benefits that are likely less expensive than supply alternatives. More importantly, proposed Rule 29 requires that energy efficiency programs be cost-effective, thereby ensuring that benefits will outweigh costs for Mississippi customers and utilities.

The EIS completed by GDS Associates, Inc. concludes that energy efficiency programs implemented through proposed Rule 29 would be cost-effective, save substantial amounts of energy, capacity and water over the long-term, increase job growth, and have a positive impact on small businesses (EIS, p 1, 12). The alternative to proposed Rule 29 – new generation sources for electricity, and burning additional natural gas for space heating and industrial processes – would be more costly than implementing energy efficiency programs (EIS, p 13).

More specifically, over a 20-year period, proposed Rule 29 could save approximately 37,012 GWh of electricity, 131,906 BTUs of natural gas, and 803 MW of electricity demand (EIS, p 2). This suggests that on an annual basis, Mississippi could see savings on the order of 0.7% of sales. Similarly, another analysis of the impact of potential energy efficiency policies in Mississippi concluded that, by 2030, Mississippi could reduce its energy consumption by approximately 17% of the energy consumed by the state in 2007.<sup>1</sup>

By 2020, the EIS estimates that Mississippi could experience net gains of 6,900 jobs annually, and save about 344 million gallons of fresh water (EIS, p 2). While such results are more likely to materialize during implementation of Comprehensive programs rather than Quick Start

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<sup>1</sup> See Georgia Institute of Technology and Duke University, "Energy Efficiency in the South, Appendix G, State profiles of Energy Efficiency Opportunities in the South: Mississippi," April 2010. Note that the potential energy efficiency policies considered in this Georgia Institute of Technology and Duke University study are not the same as the energy efficiency policies contemplated in Rule 29. This study is referenced here only to support the EIS finding that energy efficiency policies have the potential to save substantive amounts of electricity.

programs, this estimate demonstrates the potential long-term employment benefits of implementing energy efficiency programs in Mississippi.

The EIS concludes that the energy efficiency programs proposed by Rule 29 could be cost-effective under the Total Resource Cost (TRC), the Participant Cost, and the Rate Payer Impact (RIM) tests based on current Electric Capacity Forecast projections from Mississippi electric utilities (EIS, p 8). Generally, energy efficiency programs throughout the United States have been shown to be cost-effective, with many states achieving very high kWh savings as a percentage of annual kWh sales (EIS, p 11).

The EIS determined that the levelized cost of electricity savings for program implementation costs, rebates, and program administration is approximately \$0.025/kWh (EIS, p 14). Conversely, the average levelized cost of a conventional combustion turbine is \$0.0661 (EIS, p 13). Electric energy efficiency programs are more cost-effective than all coal and combustion turbine technology options on a levelized cost basis when only direct program costs are considered. Natural gas energy efficiency programs are also more cost-effective on a levelized basis than burning natural gas at an equivalent level of consumption (EIS, p 14).

We recognize that the estimates of energy efficiency costs and benefits in the EIS are approximations. For example, the program measure mix and savings assumptions used in the EIS are based on general assumptions that may not be specific to Mississippi. The EIS findings appear to draw from a study on energy efficiency policy impacts conducted by Georgia Institute of Technology and Duke University, which considered energy efficiency policies that differ from those envisioned by Rule 29.

Nonetheless, it is generally understood that such an economic assessment is intended to gauge the likely impacts from a particular action, and is not intended to be a forecast of actual results. As such, the EIS successfully demonstrates that Mississippi will likely experience significant net benefits through the implementation of energy efficiency programs, similar to programs employed in other jurisdictions.

In summary, proposed Rule 29 requires energy efficiency programs to be cost-effective. This means that by definition the program benefits will exceed the costs, thereby satisfying the ultimate goal of the EIS.

The question for the Commission and stakeholders is no longer a matter of *whether* Mississippi should implement energy efficiency programs. The question is now a matter of *how* Mississippi should properly and effectively implement such programs.

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## Comments on the Proposed Rules for Conservation and Energy Efficiency Programs, Rule 29

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### 1. Background

On January 15, 2010, the Mississippi Public Service Commission (Commission) declared its intent to investigate the development and implementation of energy efficiency programs and standards in docket 2010-AD-2. Through this proceeding the Commission developed proposed Rule 29, which is based largely on the energy efficiency rules developed in Arkansas (AR Rules), which were initially promulgated in 2007.<sup>2</sup>

Additionally, through docket 2010-AD-2 the Commission requested that the Mississippi Public Utilities Staff perform an economic impact statement (EIS), which was completed on July 2, 2012. In November 2012, the Commission requested comment from interested parties on Rule 29 and the EIS in preparation for a forthcoming public hearing.

On September 16, 2011, the 25x'25 Initiative submitted comments on proposed Rule 29 by providing the testimony of Hale Powell. Mr. Powell's testimony drew heavily on the regulatory and energy efficiency program experience in the nearby state of Arkansas, since that was the basis for the rule. Mr. Powell argued that the various lessons learned in Arkansas can, and should be, anticipated in the rules approved by the Mississippi Commission.

Since the September 2011 comment period, the Arkansas Commission (AR Commission) issued a subsequent order (AR Order) that establishes a process and timeline for the AR Commission to resolve issues related to the development and implementation of the second three-year cycle of Comprehensive utility energy efficiency programs in Arkansas.<sup>3</sup>

Also since the September 2011 comment period, the Louisiana Public Service Commission (LA Commission) voted to approve energy efficiency rules for Quick Start programs (LA Rules).<sup>4</sup> In 2009, the LA Commission opened the rulemaking to study the possible development of financial incentives for the promotion for energy efficiency by the state's utilities. The LA Rules were based in part on the AR Rules, and were developed over three years through a technical session and multiple rounds of written comment from stakeholders.

We recommend that the initial AR Rules, which were initially adopted over five years ago, should be seen as being superseded by the LA Rules and 2013 AR Order in the Commission's development of Rule 29. The LA Rules are more recent and relevant to the Commission in fashioning Rule 29, while the AR Order seeks to resolve issues and shortfalls inherent to the

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<sup>2</sup> See Arkansas Public Service Commission, Rules for Conservation and Energy Efficiency Programs, Dockets 06-004-R, 10-100-R, and 10-101-R.

<sup>3</sup> See Arkansas Public Service Commission, Docket Nos. 13-002-U, 07-075-TF through 07-079-TF, 07-081-TF through 07-083-TF, and 07-085-TF, Order No. 1 in Docket No. 13-002-U, January 4, 2013.

<sup>4</sup> See Louisiana Public Service Commission, Proposed Energy Efficiency Rules Applicable to LPSC Jurisdictional Electric and Gas Utilities in Louisiana Phase I – Quick Start, Docket No. R-31106. See also Minutes of December 12, 2012 Open Session of the Louisiana Public Service Commission held in Baton Rouge, Louisiana.



initial AR Rules. The LA Rules and AR Order are now the best source available for lessons learned in nearby jurisdictions, and Rule 29 could benefit from the collaborative rulemaking process utilized in Louisiana and Arkansas. The Commission should revise proposed Rule 29 to account for lessons learned in both Louisiana and Arkansas.

The 25x'25 Initiative provides supplementary comments on proposed Rule 29. Comments on the proposed rule expound upon the testimony of Mr. Powell, highlighting priorities and further developing key recommendations based on the recent developments in Louisiana and Arkansas. Note that not all of Mr. Powell's recommendations have been duplicated here so as to avoid repetition. However, omission of previous comments does not imply that his suggestions are no longer valid or important for the Commission's consideration. Also, attached to these comments are a redline version of the proposed rule as amended by the 25x'25 Initiative and recognized at Appendix A.

## 2. Executive Summary

The 25x'25 Initiative supports the proposed Rule 29, and believes that it will start Mississippi on the correct path toward achieving the many benefits offered by customer-funded energy efficiency programs. While we agree with many of the concepts in the proposed rule, we have nonetheless identified several important suggestions for improving upon the draft rule, based on recent developments in Louisiana and Arkansas. Our primary recommendations can be summarized as follows:

- Immediate Transition from Quick Start to Comprehensive programs: The Comprehensive programs should begin immediately subsequent to the completion of Quick Start programs, so as to ensure timely and seamless delivery of energy efficiency programs to Mississippi customers and avoid disruptive program implementation gaps.
- Quick Start program evaluation: The Quick Start programs should be properly evaluated with respect to their performance and administrative efficiency so as to apply lessons learned to the Comprehensive programs. The Commission should more clearly define the specific objectives of the Quick Start programs to be evaluated.
- Development of Comprehensive program rules: The Commission should take sufficient time to thoroughly contemplate matters associated with the Comprehensive programs before issuing final Comprehensive program rules. There are a number of issues within the proposed rule that would undoubtedly benefit from further deliberation, as discussed in more detail throughout these comments. Such careful consideration is best achieved by developing the Comprehensive Program rules after promulgation of the Quick Start program rules, and after commencement of the Quick Start programs, so as not to further delay implementation of energy efficiency programs in Mississippi.
- Collaborative process for program and rule development: The Comprehensive programs and associated rules should be developed through a collaborative process that incorporates input from a variety of stakeholders. Collaborative decision-making can

reduce the likelihood of litigation associated with program costs and cost recovery, thereby increasing administration efficiency and reducing program costs.

- Timeline for program and rule development: The Commission should employ diligent scheduling practices in order to complete development of both the Comprehensive rules and program designs in time to begin immediately after completion of the Quick Start programs. A suggested timeline is attached to these comments as Appendix B.
- Cost-Benefit tests: The Commission should identify a primary cost-effectiveness test for screening energy efficiency programs to provide clear direction to the utilities. The TRC test should be the primary test in Mississippi as it is the most comprehensive cost-effectiveness test - provided "other program impacts" are accounted for within the test results. The Commission should not rely on the RIM test in evaluating program cost-effectiveness, as it is unduly restrictive and not useful for the purpose of screening energy efficiency.
- Lost contribution to fixed costs: The Commission should carefully consider collection of lost revenues especially for Comprehensive programs, as this is a particularly difficult and controversial issue. We urge the Commission to explore the possibility of implementing a rate decoupling mechanism, similar to the investigation of decoupling that Arkansas has recently commenced.
- Utility performance incentives: The Commission should take sufficient time to develop a sound performance incentive mechanism that appropriately encourages Mississippi utilities to develop and implement highly successful programs. It is important that utility incentives be properly designed, because the specific designs can have significant implications regarding utility energy efficiency activities and achievements.
- Energy Savings Targets: The Commission, through a collaborative process, should establish reasonable specific numerical energy savings targets. Targets should be set at a lower level during the Quick Start program to allow utilities to gain experience. However, targets should increase over time to allow for Comprehensive program development, adoption of new energy efficiency technologies, and long-term energy savings.
- Annual Reporting Requirements: The Commission should take sufficient time to develop, through a collaborative process, more specific and robust reporting requirements for Comprehensive programs. Such detailed, collaboratively developed reporting requirements will create consistency in filings to the Commission, guarantee that programs best meet the public interest, and ensure that programs are developed in accordance with national best practices.

### **3. Rule 29, Section 102 – Administration and Implementation of Energy Efficiency Programs**

As a means to initiate energy efficiency programs at a sustainable pace, both Arkansas and Louisiana employed Quick Start programs before commencing Comprehensive programs, which Rule 29 proposes to mimic. Such an approach is appropriate for ensuring timely implementation of energy efficiency programs while building the necessary delivery infrastructure and expertise. However, the rules should be clear that there should be no delay or gap between Quick Start programs and Comprehensive programs.

In Arkansas, utilities were required to begin implementation of Quick Start programs no later than October 1, 2007, while a plan for the first round of Comprehensive programs was to be filed with the AR Commission on April 1, 2009. This allowed about a year and a half for implementation and review of the Quick Start programs, and simultaneous development of the Comprehensive programs.

The LA Rules include a detailed timeline for implementation of Quick Start programs, with detailed requirements occurring at various monthly intervals beginning with the Commission's adoption of the final energy efficiency rules. The timeline allows about four years for Quick Start programs to be developed, implemented, and completed, and includes a schedule for filing annual reports with EM&V study results. Most notably, the LA Rules state that Comprehensive programs could be timed to begin when the Quick Start programs end. Such a structure is important for ensuring that customers are provided continuous program delivery, while still allowing time for thoughtful program review and development.

Proposed Rule 29 states that "no later than 36 months from the date of the Commission's order approving the Quick Start Plan, each electric and gas utility should file a Comprehensive Portfolio Plan for energy efficiency programs." Three years is sufficient time to implement and evaluate the Quick Start programs, including the evaluation priorities recommended in Mr. Powell's testimony, as further discussed below. While three years is sufficient time for the Quick Start programs, we recommend that the programs be designed in a way that allows and stipulates the Comprehensive programs to begin implementation *immediately* after the three years are concluded.

Proposed Rule 29 is silent as to the timing and transition in program delivery from Quick Start to Comprehensive programs. We recommend that the Commission more clearly state that no pause in program delivery occur between the Quick Start and Comprehensive programs. In both the Quick Start Plan and Comprehensive Portfolio individual program description filing requirements, proposed Rule 29 requires the inclusion of a plan that avoids disruptive stop-start funding cycles. The transition between Quick Start and Comprehensive programs has the potential to create a significantly disruptive program implementation gap. Such interruptions in efficiency program delivery can hinder the development of energy efficiency in several ways, including:



- Trade allies.<sup>5</sup> The many trade allies may not be able to maintain stable business levels with abrupt cessations in demand for their services. Even the perception of fluctuating demand or expected interruptions in demand for their services may limit trade ally interest and commitment, thereby hindering the development of the energy efficiency infrastructure in Mississippi.
- Utilities. Utility management, program planners and program implementers will have a difficult time committing to a sustained level of activity if they anticipate fluctuations or interruptions in energy efficiency program requirements. At a minimum, fluctuations and interruptions in program requirements will likely lead to inefficiencies within the utilities, which will eventually lead to higher costs or lower benefits to customers, or both.
- Customers. Electric and gas customers might become frustrated or disillusioned about the efficiency programs if they are denied access to programs due to program interruptions or delay. The importance of avoiding this outcome cannot be overstated, as satisfied customers are an essential aspect of expanding energy efficiency programs. In addition, utility marketing campaigns become inefficient, and possibly misleading or confusing, if programs are significantly delayed or interrupted as customers that learn about a program offering are later informed that the offering is no longer available.

In order for the Comprehensive programs to begin 36 months from the date of the Commission's order approving the Quick Start programs consistent with proposed Rule 29, the utilities should begin developing the Comprehensive programs along with input from stakeholders, immediately after the second year of Quick Start implementation. The utilities and stakeholders would then have eight months to develop the Comprehensive programs and to file the proposed programs with the Commission for review. The Commission would then have four months to review and make findings on the Comprehensive programs.

We recognize that these recommendations are a departure from Mr. Powell's testimony, which suggested a break between the Quick Start and Comprehensive programs to allow for proper evaluation of the Quick Start programs. However, in light of the LA Rules and after further consideration of the side-effects from interrupting program delivery, we believe it is entirely possible to implement and evaluate the Quick Start programs within the three-year period while developing Comprehensive programs that account for lessons learned within the Quick Start program phase.

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<sup>5</sup> We use the term "trade allies" to refer to the many people and companies that are required to implement energy efficiency programs, such as efficiency equipment manufacturers, efficiency equipment distributors, efficiency equipment retailers, home energy auditors, commercial and industrial technical assessment providers, efficiency vendors and contractors, architects, builders and tradespeople that build and maintain buildings and install efficiency measures.

#### **4. Rule 29, Section 103 – Quick Start Plan Filing Requirements**

As stated in the proposed rule, a primary goal of the Quick Start programs is to accelerate the development of program infrastructure and program capabilities. Consistent with Mr. Powell's initial testimony, we again stress the importance of defining the specific objectives that the Quick Start Plans should achieve. Such objectives should be evaluated with respect to their performance and administrative efficiency, including participation levels, expansion of energy expertise and development of program staff, and program infrastructure. It is important for the Quick Start programs to be properly evaluated in order to apply lessons learned to the Comprehensive Plans. Please refer to Mr. Powell's testimony for more detailed information on the specific objectives.

Additionally, proposed Rule 29 states that "Quick Start budgets shall be applied to programs of sufficient scale to provide meaningful energy and/or demand reductions for the applicable program time periods rather than to a larger number of smaller programs with minimal impacts." This language could unintentionally dilute the other equally important objectives of the Quick Start Plans, which is to develop infrastructure, expand expertise, and apply lessons learned. While the intent of this statement is likely to concentrate spending on key Quick Start programs, it is important not to lose focus on the overall objectives of Quick Start programs by increasing attention on savings goals from the start.

Alternative language could be based on a section of the LA Rules that addresses how the utilities should focus their Quick Start programs efforts: "Utilities should strive to strike a balance between implementing residential and non-residential Quick Start programs, and should include, to the extent possible, most major end uses. Given the objective of quickly developing cost-effective programs, utilities are encouraged to consider programs that have a documented track record of success in Louisiana and other jurisdictions.... 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." (LA Rules, p 6). We recommend including language in Rule 29 that requires a balance between efficiently reducing costs to customers and building energy efficiency infrastructure.

Finally, proposed Rule 29 requires that the total proposed Quick Start budget be included in the Quick Start Plan Portfolio, including each individual program's estimated program costs and its portion of the total proposed Quick Start budget. We recommend that the rule more explicitly identify the costs to be reported for each individual Quick Start program. The proposed budgets for each program should separately break out the costs associated with (a) administration and planning, (b) promotion and advertising, (c) customer incentives, (d) delivery and vendors, (e) participant contributions, and (f) monitoring and verification. This information is essential for the Commission and other stakeholders to assess whether the utility budget is properly allocated across these key activities. Such budget categorization is also common practice in other jurisdictions, including Louisiana (LA Rules, p 6).

## 5. Rule 29, Section 104 – Comprehensive Portfolio Plan Filing Requirements

Mr. Powell's testimony recommended that proposed Rule 29 not attempt to identify all requirements for Comprehensive programs as it would be premature. Instead, he recommended that such requirements be developed during the Quick Start period and reflect the (a) filing requirements in other jurisdictions with established comprehensive programs; (b) experience of the Quick Start programs; (c) recommendations of National Action Plan for Energy Efficiency or other national bodies; and (d) recommendations of Commission consultants and independent experts. We again maintain Mr. Powell's recommendation that the Commission take the necessary time to carefully consider rules for Comprehensive programs. As further detailed below, such careful consideration is likely best achieved by developing the Comprehensive Program rules after promulgation of the Quick Start program rules and commencement of the Quick Start programs.

Importantly, the LA Rules only address the Quick Start programs, with Comprehensive program rules to be addressed in a subsequent rulemaking likely occurring during implementation of the Quick Start programs. The initial AR Rules addressed both the Quick Start and Comprehensive program rules simultaneously. However, the recently issued AR Order, which addresses issues related to Comprehensive program development, is telling of the difficulties in getting the right program rules for both Quick Start and Comprehensive programs before energy efficiency programs have been implemented.

We urge the Commission to learn from both Louisiana and Arkansas by taking the time to thoroughly consider matters associated with Comprehensive programs. There are a number of issues within the proposed rule that would undoubtedly benefit from further deliberation, including cost-effectiveness screening, performance incentives, recovery of lost contributions to fixed costs, annual reporting requirements, and others.

While we maintain that the Commission should develop the Comprehensive programs rules after the Quick Start program rules, we offer guidance on each of these topics in more detail below should the Commission decide to move forward with rules for Comprehensive programs within this rulemaking.

We reiterate Mr. Powell's recommendation that Comprehensive rules and programs be developed through a collaborative process. Mr. Powell previously stated that the Comprehensive program portfolios and rules should be developed by incorporating input from a variety of parties including experts, informed stakeholders, and ratepayers who will both fund and benefit from the programs implemented by Mississippi utilities. Such a collaborative effort should be implemented regardless of whether the Comprehensive rules are developed in the current proceeding.

The use of such collaborative efforts is used in many other jurisdictions, including in both Louisiana and Arkansas. The LA Rules stipulated that the development of rules for Comprehensive programs will be the result of a collaborative process with interested parties. The LA Commission staff will facilitate the collaborative process and will encourage participation of other state agencies in addition to all utilities in the process.



The AR Commission was so pleased with the collaborative process that it intends to develop a Continuous Program Improvement Collaborative, with an ongoing mission to maximize the benefits of utility energy efficiency programs for ratepayers and for Arkansas. The AR Commission stated that, "in order to more quickly achieve the development of uniform, Comprehensive programs that are coordinated statewide across electric and natural gas utilities, to build on past collaborative successes, and to pool limited resources and enable maximum substantive participation by all parties, the [AR] Commission proposes implementation of an enhanced statewide collaborative process that would take advantage of expert technical assistance and facilitation to help resolve specific issues, and that would incorporate a decision-making and reporting process that would facilitate stakeholder buy-in and [AR] Commission reliance on its results" (AR Order, p 41).

The benefits of such collaborative efforts is that ratepayer funded efficiency programs are more likely to reflect best practices and are actually well tailored to address the needs of the ratepayers receiving the services and ensuing benefits. In addition, experience in other jurisdictions suggests that collaborative decision-making can reduce the likelihood of litigation associated with program costs and cost recovery, thereby increasing administration efficiency and reducing program costs.<sup>6</sup>

However, the Commission should also keep in mind that, while the Comprehensive program rules would benefit from additional time for consideration, the rules must be finalized in time for the Comprehensive programs to begin immediately after the conclusion of the Quick Start programs. In order for this to happen, the Comprehensive rules should be developed and finalized prior to the beginning of Comprehensive program planning. As mentioned above, Comprehensive program planning should begin following the second year of Quick Start implementation. Therefore, the Commission and stakeholders through a collaborative process should develop and finalize Comprehensive program rules during the first and second year of Quick Start implementation.

The Commission will need to be careful about the schedule necessary to keep the development of the Comprehensive rules and programs on track while the utilities implement the Quick Start programs. To facilitate this effort, we have prepared a timeline chart (Appendix B) to indicate how the various elements might fit together. This chart includes approximate timelines for the Commission, the utilities, and the collaborative stakeholder process discussed above. Note that the 25x'25 Initiative does not have firm opinions on the exact dates proposed in this timeline, particularly the dates for regulatory review. Our main goal in preparing the timeline to this level of detail is to ensure that all the key activities are identified and that the necessary elements occur in a way that guarantees a seamless and timely transition to robust Comprehensive programs.

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<sup>6</sup> We note that Arkansas has proposed another means of increasing administration efficiency and reducing program costs in the recent AR Order. The AR Commission proposed that implementation of a single program policy and approval docket incorporating the three-year plans of all utility energy efficiency programs that might reduce time spent by parties and the AR Commission on purely procedural matters and afford more opportunity for discussion and resolution of substantive matters (AR Order, p 5). We recommend that the Commission follow this discussion in the AR Order proceeding, as it could prove valuable to the Mississippi energy efficiency administration process.

If the Comprehensive program rules are to be finalized in this proceeding, then they should incorporate best practices from other jurisdictions to the greatest extent possible. In Arkansas, the AR Commission set forth a checklist of factors it intended to use to determine whether a utility's proposed energy efficiency programs are comprehensive pursuant to the AR Rules.<sup>7</sup> The checklist of factors considers whether the programs address, among other issues: market barriers, customer needs comprehensively and at one time, major end-uses, and achievement of all available cost-effective energy efficiency. Through the AR Order, the AR Commission is investigating ways to further develop rules for program coordination and comprehensiveness through the checklist of factors (AR Order, p 37-39). We recommend that the Commission consider including a similar checklist of factors for evaluating Comprehensive program design.

Further, the Commission proposes to apply similar requirements to Comprehensive programs as proposed for Quick Start programs related to focusing budgets on programs that provide meaningful savings rather than to a large number of small programs with minimal impacts. Again, we encourage the Commission not to lose sight of the long-term goals for energy efficiency. This language could encourage utilities to implement energy efficiency measures that, while offering significant savings in the short-term, are not appropriate for the long-term. An overemphasis on maximizing savings through concentrated programs can lead to "cream-skimming" and create "lost opportunities," both of which are not in customers' long-term interest.<sup>8</sup> We recommend including language that requires a balance between reducing costs to customers and ensuring long-term savings.

Finally, and similar to the Quick Start program budgets, we recommend that the Commission more explicitly identify the costs to be reported for each individual Comprehensive program. The proposed budgets for each program should separately break out the costs associated with (a) administration and planning, (b) promotion and advertising, (c) customer incentives, (d) delivery and vendors, (e) participant contributions, and (f) monitoring and verification. This information is essential for the Commission and other stakeholders to assess whether the utility budget is properly allocated across these key activities, and is common practice in other jurisdictions.

## **6. Rule 29, Section 105 – Cost-Benefit Tests**

The proposed Rule 29 states that the cost-benefit assessments for all energy efficiency programs will be evaluated using the Total Resource Cost (TRC), the Program Administrator Cost (PAC), the Participant Cost (PCT), and the Rate Impact Measure (RIM) tests. Mr. Powell's testimony recommended that Quick Start programs not be required to demonstrate cost-effectiveness, while such a requirement is essential for Comprehensive programs. Mr. Powell's

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<sup>7</sup> See, Arkansas Public Service Commission, Docket No. 08-144-U, Order No. 17, the Sustainable Energy Resource Docket.

<sup>8</sup> Cream-skimming occurs when only the lowest-cost, highest savings efficiency measures are provided to a participating customer, while other cost-effective measures are ignored. Lost opportunities occur when efficiency measures are not installed when it is most cost-effective to do so (e.g., the construction of a new building or the purchase of new appliances).

testimony also stressed the importance of cost-effectiveness language that is as clear and unambiguous as possible in order to avoid the possibility of divergent interpretations by different utilities as they design programs. With this objective of clear and unambiguous guidance in mind, and in an effort to more fully develop rules for the Comprehensive programs should the Commission do so at this time, we offer the following supplemental comments regarding the use of a primary cost-effectiveness test and a critique of the RIM test.

Proposed Rule 29 does not specify a primary test to rely on for program screening. Approximately 95 percent of states rely on a single, primary screening test for energy efficiency. The TRC test is used by 29 states as the primary methodology for defining energy efficiency cost-effectiveness, including Louisiana (LA Rule, p 6).<sup>9</sup> The LA Rules specify that it is preferable for each energy efficiency program to have benefit-cost ratios greater than 1.0 for each cost-effectiveness test, with the exception of the RIM test. However, in order to implement a program in Louisiana, at a minimum, each energy efficiency program must have a TRC test benefit-cost ratio that is greater than 1.0.

Similar to proposed Rule 29, the AR Rules did not identify a primary test for cost-effectiveness screening. However, in the recent AR Order, the AR Commission is now considering whether to rely on either the TRC or PAC test as its primary cost-effectiveness test (AR Order, p 34). We recommend that the Commission identify a primary test to use in determining whether energy efficiency programs are cost-effective so as to provide clear direction to the utilities.

As for which test should be the primary test, we recommend applying the TRC test, with a caveat that other program impacts (OPIs) must be accounted for.<sup>10</sup> Other program impacts are those costs and benefits that are not part of the cost, or the avoided cost, of energy. The AR Commission is considering including OPIs in the TRC test, and includes a detailed summary and analysis of the issue in its recent order (see AR Order, p 28-37).

The TRC test is one of the most comprehensive standards for evaluating the cost-effectiveness of energy efficiency because it includes all impacts to the program administrator and its customers. There is a wide range of other program impacts associated with energy efficiency programs, and they are generally categorized by the perspective of the party that experiences the OPI: the utility, the participant, or society at large.

Applying the TRC test without including OPIs skews cost-effectiveness results, typically against energy efficiency.<sup>11</sup> In order to be internally consistent the TRC test must include other

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<sup>9</sup> See American Council for an Energy Efficiency Economy, "A National Survey of State Policies and Practices for the Evaluation of Ratepayer-Funded Energy Efficiency Programs," Kushler, Nowak, and Witte, Report Number U122, February 2012.

<sup>10</sup> The term "other program impacts" is used to describe what are commonly referred to as non-energy impacts (NEIs) or non-energy benefits (NEBs). OPIs are those costs and benefits that are not part of the costs, or the avoided costs, of the energy provided by the utility that funds the efficiency program. In addition to non-energy impacts, OPIs also include "other fuel savings," which are the savings of fuels that are not provided by the utility that funds the efficiency program.

<sup>11</sup> See RAP and Synapse Energy Economics, Inc., "Energy Efficiency Cost-Effectiveness Screening: How to Properly Account for 'Other Program Impacts' and Environmental Compliance Costs," November 2012. See also Synapse Energy Economics, Inc., "Best Practices in Energy Efficiency Program Screening: How to Ensure that the



program impacts on the program participants. Nevertheless, regulators are often wary of doing so because some of the costs are uncertain and difficult to quantify. In addition, some stakeholders are concerned that including OPIs in the assessment of energy efficiency could lead to utility customers paying higher costs for efficiency programs in order to pay for other program benefits that are not in their interest and should not be paid for through utility rates.

We recommend that the Commission use the TRC test as the primary test to screen the Comprehensive programs, and that this test should include OPIs to the greatest extent possible.<sup>12</sup> OPIs can be studied as part of the Quick Start program implementation, and incorporated into the Comprehensive programs in a manner acceptable to the Commission and stakeholders. If the Commission chooses not to account for OPIs, then the TRC test should not be used as the primary test for screening energy efficiency programs.

If the Commission chooses to not account for OPIs, the PAC test is the best primary test to use in screening energy efficiency programs. This test is relatively transparent, is limited to the impacts on revenue requirements, and ensures that utility customers on average will experience lower utility costs as a result of the efficiency programs. Indeed, the AR Commission is currently wrestling with this exact concept, as it recently requested comments on whether the primary cost-effectiveness in Arkansas should be the TRC test with OPIs included, or, alternatively, the PAC test (AR Order, p 34). If the PAC test is used, the Commission must recognize that important customer benefits would be ignored, particularly the low-income benefits and the other fuel savings.

We recommend that the Commission *consider* the results of all the cost-effectiveness tests in its assessment of energy efficiency programs, with emphasis on the TRC test as the primary test. However, the RIM test results should be considered with particular caution. Language in proposed Rule 29 should be clear that the Commission will not accept results of the RIM test as the primary determinant of program cost-effectiveness. Mr. Powell's testimony cautions against relying on the RIM test, which we elaborate on here.

The RIM test tends to be the most restrictive of all the efficiency tests, because the utility's lost revenues can make very large contributions to the energy efficiency program costs. Most, if not all, states have ruled that the RIM test should not be used as the primary test for evaluating energy efficiency cost-effectiveness. There are several reasons for this:

- Applying the RIM test to screen efficiency programs will not result in the lowest cost to society or the lowest cost to customers on average. Instead, it will lead to the lowest rates (all else being equal). However, achieving the lowest rates is not the primary goal of utility planning and regulation, especially if lower rates lead to higher costs to customers on average.

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Value of Energy Efficiency is Properly Accounted for" prepared for National Home Performance Council, July 2012.

<sup>12</sup> See RAP and Synapse Energy Economics, Inc., "Energy Efficiency Cost-Effectiveness Screening: How to Properly Account for 'Other Program Impacts' and Environmental Compliance Costs," November 2012. See also Synapse Energy Economics, Inc., "Best Practices in Energy Efficiency Program Screening: How to Ensure that the Value of Energy Efficiency is Properly Accounted for" prepared for National Home Performance Council, July 2012.

- A strict application of the RIM test can result in the rejection of large amounts of energy savings and the opportunity for large reductions in many customers' bills in order to avoid what are often small impacts on non-participants' bills. From a public policy perspective, such a trade-off is illogical and inappropriate.
- The RIM test does not provide useful information about what happens to rates as a result of program implementation. A RIM test benefit-cost ratio of less than one indicates that rates will increase (all else being equal), but says little to nothing about the magnitude of the rate impact. And it says nothing at all about the amount of cost savings associated with the energy efficiency program.
- Screening efficiency programs with the RIM test is inconsistent with the way that supply-side resources are screened, and creates an uneven playing field for the consideration of supply- and demand-side resources. There are many instances where utilities invest in new power plants or transmission and distribution facilities in order to meet the needs of a subset of customers, (e.g., new residential subdivisions, an expanding industrial base, geographically-based upgrades). These supply-side resources are not evaluated on the basis of their equity effects, nor are the "non-participants" seen as cross-subsidizing the "participants."
- The RIM test is heavily influenced by the lost revenues to the utility. However, lost revenues are not a true cost to society. Lost revenues represent a "transfer payment" between efficiency program participants and non-participants; the bill savings to the program participants result in the lost revenues that are collected from all customers, including non-participants. In this way, lost revenues are not a new or an incremental cost in the same way that the program administration costs are a new and incremental cost of implementing energy efficiency programs, and they should not be applied as such in screening a new energy efficiency resource.

Nonetheless, efficiency programs can lead to increased rates, and rate impacts are an important consideration for regulators and other efficiency stakeholders. However, it is important to recognize that the rate impacts of energy efficiency programs are not a matter of cost-effectiveness. (As noted above, the lost revenues are simply a transfer payment and do not represent an incremental cost.) Instead, they are a matter of customer equity between program participants that experience reduced bills and nonparticipants that experience increased rates and therefore increased bills.<sup>13</sup>

Finally, regarding the measure life used in program cost-effectiveness screening, the proposed rule allows utilities to use an evaluation period of either ten years or the actual lives for each measure. Energy efficiency measures produce savings over the full course of their useful lives.

<sup>13</sup> It is important to note that all customers benefit from energy efficiency programs in certain ways, regardless of whether they participate in the programs. For example, all customers will experience reduced risk, improved reliability, reduced transmission and distribution costs, reduced costs of environmental compliance, reduced environmental impacts, and the benefits of price suppression effects in wholesale electric markets.

Depending on the measure, the useful life can be as long as 20 years or more. Energy efficiency screening practices should include the savings available over the full life of the energy efficiency measure. This requires using a study period that is long enough to capture savings over their full useful lives. Shorter study periods will skew the cost-effectiveness results against energy efficiency.

## **7. Rule 29, Section 106 – Cost Recovery**

### **Lost Contribution to Fixed Cost**

Proposed Rule 29 allows for recovery of program costs and lost contribution to fixed cost. Energy efficiency programs reduce retail electricity and natural gas sales, and thereby reduce the revenues earned by utilities. The amount of revenues lost through energy efficiency can become quite large over time. Efficiency measures installed in any one year tend to save energy for the useful life of the efficiency measure (i.e., seven, fifteen or even twenty years). As efficiency programs operate over several years, the lost revenues from every year's activities accumulate over time and can become very large, creating a strong disincentive for utilities to support energy efficiency.

Some states allow utilities to recover the lost revenues resulting from the savings of their energy efficiency programs. This approach raises several concerns including: the lost revenues can become quite large and will contribute to increased rates; the utility may be able to recover the lost revenues as a result of other forces that increase sales (e.g., weather or the economy), leading to over-compensation; and the utility still has a disincentive to promote demand-side activities that fall outside of the energy efficiency programs (e.g., building codes, appliance standards, distributed generation). The Commission indicated that it may decide to limit the time period during which utilities may recover lost contributions to fixed costs.

Recovery of lost contribution to fixed costs is a difficult issue, and was one of the most contentious issues in the Louisiana rulemaking. The LA Commission decided to allow collection of lost revenues resulting from the Quick Start programs, which are to be based on validated energy savings, and will be approved in a base rate or formula rate proceeding. The LA Commission decided to carefully consider compensation for lost revenues resulting from the Comprehensive programs during the Comprehensive phase of the rulemaking. The LA Commission made clear that its decision to allow collection of lost revenues related to Quick Start programs is not to be construed to mean that the Commission will adopt a lost revenue recovery mechanism in the Comprehensive phase, or that the Commission will take any specific approach to cost recovery therein. We recommend that, at a minimum, the Commission follow in the LA Commission's footsteps by carefully considering collection of lost revenues as it relates to the Comprehensive programs.

Alternatively, the Commission could follow Arkansas' example of considering whether to move to a rate mechanism that would decouple a utility's revenues from its sales volumes.<sup>14</sup> Implementation of a full decoupling rate mechanism, which separates a utility's revenues or net

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<sup>14</sup> See Arkansas Public Service Commission, Docket No. 08-137-U, Order No. 19, January 2, 2013 (AR Decoupling Order).



revenue from all changes in consumption regardless of the underlying cause of the changes, is a more comprehensive approach to overcome the utilities' disincentive to implement energy efficiency programs than recovery of lost contribution to fixed costs. Typically, on a periodic basis, the utility's actual revenues are reconciled with a target revenue level established in a base rate proceeding. A well designed decoupling plan helps keep utility profits steady while keeping customer's energy costs manageable and removing all financial disincentives to full deployment of energy efficiency programs.

To further investigate decoupling rate mechanisms, the AR Commission invited rate case applications from electric utilities that would ensure that the utility recovers all costs approved by the AR Commission independently of its volume of sales. In requesting such applications, the AR Commission issued a flexible invitation for ratemaking proposals that further align electric utility and ratepayer interests in cost recovery, risk management, energy conservation and sound resource planning.

We urge the Commission to similarly explore the possibility of implementing a rate decoupling mechanism for application to the Comprehensive programs.

#### **Utility Performance Incentives**

Proposed Rule 29 also allows the utilities to propose an approach to earn a return on energy efficiency investments through a shared-savings or performance-incentive mechanism. Mr. Powell's testimony recommended that utility performance incentives for Comprehensive programs be structured in such a way as to incentivize Mississippi utilities to develop and implement high performing programs. We reiterate this important argument here. The primary rationale for the incentive is to encourage utility upper management to provide the institutional support necessary for aggressive efficiency programs. Well-structured performance incentives can make for strong, effective energy efficiency programs.

As part of the AR Order, the AR Commission is investigating ways to improve the current performance incentive mechanism in place in Arkansas. The AR Commission is aiming to "better reward good program management and cumulative achievement and to remove or reduce factors that influence the award of incentives, but which are outside the control of program managers" (AR Order, p 14). We encourage the Commission to also develop a well-structured performance incentive mechanism that appropriately encourages achievement of energy efficiency program goals.

There are a number of performance incentive structures employed by states that could serve as a model for Mississippi's performance incentive structure. A common performance incentive structure is to base the incentive on the utility's performance in implementing efficiency programs using the shared savings approach, where the utility is allowed to recover a portion of the net benefits of the efficiency programs (i.e., program benefits less program costs). This provides the utility with an incentive to lower costs, increase benefits, and design and implement programs to save water, other heating fuels, and emissions in general.

Either way, the magnitude of the incentives should be kept as small as possible in order to maximize the funds spent on energy efficiency. Utility incentives should be explicitly capped

and should not exceed a predetermined percent of energy efficiency program budgets (e.g., ten percent). Some states also have a structure for when and how the incentives can be earned. Typically an exemplary performance cap and a minimum performance threshold are applied so as to ensure that goals are established at appropriately aggressive levels.

We recommend that the Commission take the time to develop a sound performance incentive mechanism that applies consistently to all utilities and is completed in time for application to the Comprehensive programs. Incentives for utilities should only be provided in return for well-designed and well-executed efficiency programs. It is important that utility incentives be properly designed, because the specific designs can have significant implications regarding utility energy efficiency activities and achievements.

#### **Energy Savings Target**

We support the Commission's intentions to establish specific numerical energy savings targets to raise the level of achievement of energy efficiency programs in Mississippi. The AR Commission set the initial incremental annual energy savings target at 0.25% of total electric kWh sales which then increased to 0.75% over the first three year planning cycle. The Commission should establish similar targets for the Quick Start programs. We recommend that energy savings targets for the Comprehensive programs be developed via a collaborative process that incorporates input from a variety of stakeholders. Also, the energy savings targets should be established far enough ahead of the Comprehensive programs filing deadline to allow utilities to structure their programs in a way that will achieve the savings goal as well as provide all customer classes access to effective programs.

### **8. Rule 29, Section 107 – Annual Reporting Requirements**

The proposed rule requires that the utilities file by April 1 of each year an Annual Report that addresses the performance of all approved energy efficiency programs. The report should include results of EM&V studies, programs savings and costs, as well as proposed program modifications.

Mr. Powell's testimony suggested that detailed reporting requirements not be included in the rules at this time and, instead, be developed by utilizing information about best reporting practices in other jurisdictions. Here again we recommend that the Commission take time to develop thorough reporting requirements for the Comprehensive programs. We suggest that the Quick Start programs not be delayed by taking the time to develop reporting requirements for the Quick Start or Comprehensive programs. For purposes of promptly implementing the Quick Start programs, the reporting requirements within the proposed rule are sufficient for the Quick Start Annual Report. However, evaluations on the specific objectives of the Quick Start programs as discussed in the Quick Start Plan Filing Requirements section above should be incorporated into the Quick Start Annual Reports.

In general, annual reports provide an opportunity to ensure program cost-effectiveness, reflect on the year's performance so as to improve subsequent programs, and ensure that plan goals remain aggressive but achievable. The Commission should maximize this opportunity by

developing more specific and robust reporting requirements for the Comprehensive programs. Such an approach would provide guidance to the utilities and create consistency in filings to the Commission. This is another area where a collaborative approach to developing the rules could enhance the energy efficiency programs and policy. A collaborative approach should reduce the amount of disputes between stakeholders, and significantly reduce the amount of litigation and regulatory review required for Annual Reports.

The proposed Rule 29 is silent as to the Commission's review of the Annual Report. Meaningful regulatory review of the Annual Reports is important to ensure that utilities are complying with the energy efficiency rules, and are designing and implementing energy efficiency programs that are in the public interest both in the short-term and the long-term. Annual Reports should not be allowed to be filed as confidential, proprietary, or trade secret-protected information. The Commission should allow for stakeholder input on the Annual Reports once they are filed, as this will be important to ensure that the programs best meet the public interest and are developed in accordance with established best practices. However, the Commission's review should occur on a clearly defined, limited schedule that allows for the Commission to make findings in time for them to be used for either program implementation or program planning.

Ideally, the Commission should complete its review of the Annual Reports as soon as possible after the completion of the relevant year, so that the Commission findings can be adopted in the preparation of the next energy efficiency plan. This is true for the Quick Start programs as well as Comprehensive programs. The attached timeline includes suggested periods for Commission review of energy efficiency plans and annual reports. We recognize that there is a risk of administrative inefficiency and delay associated with regulatory review, nonetheless, this review is essential to ensuring high-quality programs that maximize the short-term and long-term benefits to customers and to ensure that ratepayer monies are expended as effectively as possible.

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## Appendix A – 25x'25 Initiative “Redline” Suggestions to Proposed Rule 29

### Chapter 29      CONSERVATION AND ENERGY EFFICIENCY PROGRAMS

#### Rule 29

##### 100    Purpose

The Commission has developed these rules to implement energy efficiency programs and standards in Mississippi. The rules apply both to electric and natural gas service providers subject to the jurisdiction of the Mississippi Public Service Commission. The rules define “Quick Start” to encourage the early implementation of energy efficiency programs and to provide experience on which Mississippi’s service providers and the Commission can build Comprehensive Portfolios – long-term energy efficiency programs. The rules also define the elements of Comprehensive Portfolio.

##### 101    Definitions

1. Administrator – The entity, which may be the service provider, responsible for creating and managing an energy efficiency program or portfolio.
2. Best Practice – An approach that experience indicates is more effective at delivering a particular outcome (e.g., program design, implementation efficiency, cost effectiveness, EM&V) than other approaches. For the purpose of this rule, Best Practices are energy efficiency programs, measures EM&V, and deemed savings successfully implemented in other jurisdictions and adapted for any economic, social, or demographic characteristics unique to Mississippi. Best Practices are identified by the National Action Plan for Energy Efficiency (NAPEE), by similar national organizations, and by utilities with significant long-term energy efficiency experience.
3. Comprehensive Portfolio – A collection of energy efficiency programs that, when taken together, provide appropriate organizational resources including financial, technical, outreach, marketing, service provider infrastructure, training, and education support sufficient to achieve widespread implementation of all types of significant cost-effective energy-efficiency improvements in all categories of retail customers.
4. Cost-effective – A standard used to describe a net-beneficial result for programs to be implemented, determined through a process that includes a review of relevant cost-benefit tests. A Cost-effective program would be one that generally provides more benefits than costs according to the specific cost-effectiveness test or tests as specified by the Commission.
5. Deemed Savings – Pre-determined, validated estimates of energy and/or demand savings attributable to particular energy efficiency measures, based upon engineering calculations, baseline studies, reasonable assumptions and/or experience. Deemed savings values must be revised periodically to reflect new technologies; new federal state or local policies and codes; and additional experience.
6. Energy Efficiency – Reducing energy input to equipment and/or processes while maintaining or improving the customer's existing level of comfort and end-use functionality. Reduction in energy input 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.
7. Energy Efficiency Savings – Energy (kWh, therms) and/or capacity (kW) savings determined 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.
  8. Evaluation, Measurement, and Verification (EM&V) – Studies and activities performed to determine the actual savings and other effects from energy efficiency programs and measures.
  9. Measure – The equipment, materials and/or practices that, when put into use at a customer site, result in a measurable and verifiable reduction in either purchased energy consumption; measured energy or peak demand; or both.
  10. Non-Energy Impacts – the costs and benefits of energy efficiency programs that are not a part of the costs or the avoided costs of the energy provided by the utility implementing the program.
  11. Other Fuel Savings – savings of fuels that are not provided by the utility that funds the efficiency program.
  12. Portfolio – The entire group of programs offered by an Administrator.
  13. Program – A particular energy efficiency service or set of services directed to a particular population.
  14. Program Year – The year in which programs are administered and delivered. For the purposes of planning and reporting, a Program Year shall be considered a calendar year, January 1 through December 31.
  15. Quick Start – A portfolio of energy efficiency programs selected from programs that have been widely implemented in other jurisdictions and can provide net benefits to utility customers. These programs can be implemented more quickly in Mississippi because they are already well-defined, have well-established track records and require fewer showings to the Commission.

## **102 Administration and Implementation of Energy Efficiency Programs**

1. Filing for Commission Approvals
  - a. Quick Start Plans – Each electric and natural gas utility serving more the 25,000 customers (meters) and subject to the jurisdiction of the Commission shall file with the Commission for its approval a Quick Start Plan for energy efficiency programs for its service territory. These Plans shall be filed not later than three (3) months following the order adopting this Rule. Utilities serving 25,000 customers (meters) or fewer are exempt from filing Quick Start Plans.
  - b. Comprehensive Portfolio Plans – No later than 36 months from the date of the Commission's order approving its Quick Start Plan, each electric and gas utility shall file a Comprehensive Portfolio Plan of energy efficiency programs. Utilities serving 25,000 or fewer customers (meters) are not exempt from this filing and shall submit descriptions of energy efficiency programs that are economically feasible to implement for their organization's size.
  - c. Approval – A program, portfolio, or plan filed under these rules shall not be implemented until a Commission order is issued expressly approving the program, portfolio, or plan. The Commission shall establish a procedural schedule for the review of each program, portfolio, or plan filing.
  - d. Transition – The Comprehensive Portfolio Plan shall begin implementation immediately following the completion of the Quick Start Plan. The Quick Start Plan approved by the Commission shall remain in effect until the Commission approves

the Comprehensive Portfolio Plan.

2. Waivers

Exemptions from these rules may be granted by the Commission in accordance with the Commission's Rules of Practice and Procedure. Nothing in these rules shall preclude the Commission from modifying these rules on its own initiative or in response to a party's motion and after notice and hearing.

103 **Quick Start Plan Filing Requirements**

1. Service providers shall propose general program designs, specific programs, and specific measures and may propose programs and/or measures in any combination. The objectives of Quick Start shall be: a) the development of the increased utility program capabilities and infrastructure necessary to support subsequent Comprehensive Programs; b) the expansion of energy efficiency expertise throughout Mississippi; c) the careful identification of locally successful (and unsuccessful) energy efficiency program delivery strategies; and d) the initial delivery of energy savings benefits to a sizable cross section of utility customers.

Quick Start Plans shall include energy efficiency programs designed to cover the partial year remaining from the date of the Commission's order approving the Plan plus two successive full Program Years. Quick Start Plans may also include additional programs to be implemented in the first and/or second full Program Year. Quick Start Plans shall include energy efficiency programs that address all customer classes.

2. **Energy Efficiency Programs in Quick Start**

Energy efficiency programs should be capable of being implemented within four months of Plan approval.

The Quick Start programs shall be designed to achieve annual incremental energy savings of 0.25% in year one, 0.5% in year two, and 0.75% in year three.

All Quick Start programs shall be based on technologies that are commercially available. As appropriate, Quick Start programs shall be coordinated with and not duplicate related programs funded through other sources.

Programs filed by natural gas and electric utilities shall comply with the standards and rules regarding promotional practices as set forth by Commission Order in Docket 1994-UA-115.

~~Quick Start budgets shall be applied to programs of sufficient scale to provide meaningful energy and/or demand reductions for the applicable program time periods rather than to a larger number of smaller programs with minimal impacts.~~

Utilities shall file energy efficiency programs developing individual programs from the following general list of categories:



- a. *Customer Education* – This would include the education of customers on energy efficiency and conservation. It should, to the greatest extent possible, be a consistent statewide group of messages. It should include education of builders and equipment installers. The messages should encourage the efficient use of electricity and gas. The messages should increase awareness of opportunities to use electricity and natural gas more efficiently. This category of programs would apply to all customer classes.
- b. *Energy Audits and Evaluations Leading to Savings* – This would include home and commercial energy audits and audits of commercial and industrial processes and equipment. The audits and evaluations would produce recommendations for opportunities to implement site-specific efficiency and conservation measures. Programs would be designed for audits to lead to savings results and could include cost-effective and economically justified customer incentives to encourage the implementation of site-specific measures. A training component to increase the number and quality of auditors may be needed. This category of programs would apply to all customer classes.
- c. *Inspection and Tune Up of Heating and Air Conditioning Systems* – This would be applicable to residential, commercial, and industrial systems. This category of programs would apply to all customer classes.
- d. *Lighting* – Improved lighting for residential, commercial, and industrial customers. This category of programs would apply to all customer classes.
- e. *Appliances* – Programs that offer rebates or other incentives on high-efficiency appliance and work with upstream trade allies to increase the sales of these products through the distribution chain. This category of programs most often applies to residential and small commercial customers.
- f. *Increased Deployment of Demand Response Programs* – Such programs already exist in Mississippi. This would look for additional opportunities to offer demand response programs including interruptible service, curtailment service, off-peak service, etc. In the near term, this category of programs would apply to commercial and industrial customer classes but may eventually extend to residential customers.
- g. *Weatherization and Whole-Home Retrofits* – A residential weatherization or comprehensive retrofit program that would be based solely on efficiency criteria using established home assessment protocols and often targeting least efficient homes first. This category of programs would apply to the residential customer class.
- h. *New Homes Program* – These residential programs provide incentives to builders who achieve a percentage of energy savings against a prescribed standard.
- i. *Commercial and Industrial Prescriptive Incentive Programs* – These programs offer a fixed-dollar incentive for multiple defined prescriptive measures (i.e., lighting, HVAC replacements, occupancy sensors, motors, etc.).
- j. *Commercial and Industrial Custom Incentive Programs* – In these programs the Administrator works with the customer to develop site-specific energy efficiency measures, and the incentive is based both on the amount of energy saved the total cost of the energy efficiency measures.
- k. *Commercial and Industrial Retro-Commissioning* – Existing buildings and comprehensively assessed and “tuned up” to optimize energy efficiency in their operations.

### 3. Quick Start Plan Portfolio Description

Each Quick Start Plan filing shall address the following portfolio elements:

- a. Demonstration that the portfolio of Quick Start programs serves all customer classes
- b. A Quick Start budget and cost recovery proposal to be collected in an energy efficiency rider (see Section 106) and
- c. Any additional supporting information the Administrator may propose.

Although estimates of program costs must be included in proposals, Quick Start programs are exempt from the requirement to provide cost-effectiveness showings under the cost-benefit tests of Section 105. Estimated energy and demand savings and an EM&V program shall be included for all Quick Start programs except a statewide education program.

#### **4. Quick Start Plan Individual Program Descriptions**

Each program in the Quick Start Plan should include the following general information:

- a. general description of the program and the services to be provided;
- b. The target customer population addressed by the program;
- c. The specific program objectives;
- d. The identification of the specific EM&V procedures that will be implemented to determine whether the program has achieved its stated objectives;
- e. Anticipated implementation barriers and how they will be addressed;
- f. Any proposed customer incentives;
- g. Program's timeframe if the program term is limited;
- h. A plan for addressing over-subscription to the program and avoiding disruptive stop-start funding cycles;
- i. Estimated energy and peak demand savings and the basis for these savings estimates, which may use Deemed Savings;
- j. Estimated program costs and its proportion of the Quick Start budget, which should be categorized as (a) administration and planning, (b) promotion and advertising, (c) customer incentives, (d) delivery and vendors, (e) participant contributions, and (f) monitoring and verification; and
- k. Any additional information or analyses the service provider may propose

#### **104 Comprehensive Portfolio Plan Filing Requirements**

[NOTE: The 25x'25 Initiative recommends not addressing Comprehensive Portfolio Plan Filing Requirements at this time. Instead, we recommend fully considering the issues associated with this section of the rule in a separate rulemaking that occurs parallel to the implementation of the Quick Start Plan. Therefore, we recommend completely deleting Section 104 from Rule 29 at this time. Nonetheless, red-lined suggestions have been provided below should the Commission choose not to adopt this recommendation and instead continue the development of Comprehensive Portfolio Plan Filing Requirements during this proceeding. Our approach here is intended to be practical, and is not intended to weaken or otherwise diminish our recommendation to separate Comprehensive Portfolio Plan Requirements from the Quick Start Plan Requirements.]

1. Service providers shall propose general program designs, specific programs, and specific measures and may propose programs and/or measures in any combination. All programs (design, implementation, EM&V, etc.) shall be guided by Best Practices. As

appropriate, Comprehensive Portfolio programs should be coordinated with and not duplicate related programs funded through other sources.

The Comprehensive Portfolio Plan shall include energy efficiency programs that address all customer classes. Plans shall cover at least one year and may cover up to three years.

Except for pilot or trial programs, ~~Comprehensive Portfolio budgets should be applied to programs of sufficient scale to provide meaningful energy and/or demand reductions for the applicable program time periods instead of to a larger number of smaller programs with minimal impacts~~ utilities should develop programs that strike the appropriate balance between maximizing net benefits to customers and developing the energy efficiency infrastructure in Mississippi.

Except for pilot or trial programs, technologies supporting energy efficiency programs should be commercially available. Program cost allocations should follow cost-causation principles – there shall be no cross subsidization between customer classes.

## **2. Comprehensive Portfolio Description and Support**

Program plans shall be consist with and reflect the effects of all energy efficiency programs in the electric utilities resource plans or natural gas utilities procurement plans.

Programs filed by natural gas and electric utilities shall comply with the standards and rules regarding promotional practices as set forth by Commission Order in Docket 1994-UA-115.

Each Comprehensive Portfolio Plan filing shall address the following portfolio-level elements:

- a. Demonstration that the scope of the Comprehensive Portfolio Plan serves all customer classes;
- b. A showing of providing ~~aggregate ratepayer~~ net benefits to ~~the majority of~~ ratepayers;
- c. Cost-benefit analysis (see Section 105) listing total costs and benefits, including expected savings goals for the portfolio;
- d. A Comprehensive Portfolio budget and cost recovery proposal to be collected in an energy efficiency rider (see Section 106); and
- e. Any additional supporting information the utility may propose.

## **3. Comprehensive Portfolio Plan Individual Program Description Requirements**

Program designs should reflect Best Practices. The proposed programs may continue to include, but are not limited to, those in Quick Start. For program implementation, a focus should be placed on local and diverse equipment and service providers to the extent these are available and competitively priced.

The Commission shall establish energy savings targets, in terms of annual incremental savings as a percent of total sales, for the Comprehensive programs, based upon stakeholder input from the collaborative process.



- a. For the Comprehensive Portfolio and each program a utility shall describe, in qualitative and quantitative terms, how its proposal will further or accomplish any or all of the following objectives or benefits identified in Section 101 that are reasonably applicable to the utility's proposal. Should the utility determine that its proposal does not address one or more of the listed objectives or benefits, the utility shall briefly explain why not.
- i Energy savings directly attributable to program activities;
  - ii Long-term and permanent changes in behavior, attitudes, awareness, and knowledge about energy savings and use of energy efficient technologies in order to achieve energy savings;
  - iii Permanent electric peak demand reduction;
  - iv Energy cost savings and cost-effectiveness;
  - v Reliability enhancements;
  - vi Energy security benefits;
  - vii Environmental benefits
  - viii Job creation and economic development/competitiveness benefits for Mississippi;
  - ix Increases in system-wide capacity;
  - x Improvements in energy affordability for all customers; and
  - xi Efficient program implementation.
- b. Each program in the Comprehensive Portfolio should include the following information:
- i A general description of the program and the services to be provided;
  - ii The target customer population addressed by the program;
  - iii The specific program objectives
  - iv Targets for customer participation and energy use reductions;
  - v The identification of the specific EM&V procedures that will be implemented to determine whether the program has achieved its stated objectives. The EM&V plan should appropriately balance the need to assess and improve program performance with EM&V costs. EM&V approaches should be guided by Best Practices. Portfolio EM&V cost targets should be no more than five percent of total portfolio costs although EM&V costs for some individual programs may be higher;
  - vi Anticipated implementation barriers and how they will be addressed;
  - vii Any proposed customer incentives;
  - viii Program's timeframe if the program term is limited;
  - ix A plan for addressing over-subscription to the program and avoiding disruptive stop-start funding cycles;
  - x The prescribed cost-benefit analyses (see Section 105);

- xi Estimated energy and peak demand savings and the basis for these savings estimate, which may include Deemed Savings if approved by the Commission;
- xii Estimated program costs and its proportion of the Comprehensive Portfolio budget, which should be categorized as (a) administration and planning, (b) promotion and advertising, (c) customer incentives, (d) delivery and vendors, (e) participant contributions, and (f) monitoring and verification; and
- xiii Any additional information or analyses the service provider may propose.

#### **4. Uniformity of Programs**

Programs addressing both electric and gas customers in the same service territory shall be coordinated to the extent reasonable.

##### **a. Customer Incentives**

Programs may include financial and other incentives to encourage customers to make energy efficient investments if the incentives are cost justified and are a component of a program that can provide ~~aggregate ratepayer~~ net benefits to ~~the majority of~~ utility customers.

Incentives may include information, technical assistance, leasing programs, product giveaways and direct financial inducements. Financial inducements may include but are not limited to rebates, discounted products and services, and low-rate financing.

All customer incentives shall be considered in the cost-benefit testing of programs. Costs of customer incentives shall be considered a direct program cost.

Incentives shall not be any higher than necessary to overcome the customer barriers to invest in the measure and should be reduced or eliminated as the measure becomes more of a standard practice.

##### **b. Statewide Programs**

The Commission, after notice and hearing, may direct utilities to offer uniform statewide energy efficiency and conservation programs if it determines such standardization to be the most cost-effective result and in the public interest. Utilities may request approval to offer statewide or region-wide programs for which public messages, commercial terms and conditions, and customer reception are best served by such an approach.

##### **c. Pilot Programs**

The Commission may approve pilot energy efficiency programs. A pilot program design is distinct from Quick Start and other program designs in that it shall include explicit questions that the pilot will address, explicit EM&V designed to address pilot questions, estimates of program costs and savings, and a provisional cost-benefit evaluation. Pilot Programs shall be of limited duration until reassessment after a pre-determined period. Pilot programs shall have characteristics from among the following:

- i Addressing a new end use; and
- ii Applying a new technology or a new delivery method.

Programs that are neither pilots or Quick Start programs must comply with the entire plan filing requirements of this Section 106.

All costs for Pilot, Quick Start, and other programs shall be considered eligible for cost recovery.

**5. Commission Review of the Comprehensive Portfolio and Plans**

The Commission will rely on the following Checklist to determine whether a utility's proposed Comprehensive Portfolio Plan and Individual Comprehensive Programs are comprehensive:

- a. Whether the programs and/or portfolio provide, either directly or through identification and coordination, the education, training, marketing, or outreach needed to address market barriers to the adoption of cost-effective energy efficiency measures.
- b. Whether the programs and/or portfolio have adequate budgetary, management, and program delivery resources to plan, design, implement, oversee and evaluate energy efficiency programs.
- c. Whether the programs and/or portfolio reasonably address all major end-uses of electricity or natural gas, or electricity and natural gas, as appropriate.
- d. Whether the programs and/or portfolio, to the maximum extent reasonable, comprehensively address the needs of a customer at one time, in order to avoid cream-skimming and lost opportunities.
- e. Whether such programs take advantage of opportunities to address the comprehensive needs of targeted customer sectors or to leverage nonutility program resources.
- f. Whether the programs and/or portfolio enable the delivery of all achievable cost-effective energy efficiency within a reasonable period of time and maximize net benefits to customers and to the utility system.
- g. Whether the programs and/or portfolio have EM&V procedures adequate to support program management and improvement, calculation of energy, demand and revenue impacts, and resource planning decisions.

At any time, the Commission may revisit the rules for Comprehensive Portfolio Plans to incorporate lessons learned from implementation of the Quick Start Plans and best practices in other jurisdictions.

**105 Costs-Benefit Tests**

Cost-benefit assessments for all energy efficiency programs shall be evaluated using the Total Resource Cost (TRC), the Program Administrator Cost (PAC) (also known as the Utility Cost Test (UCT)), the Participant (PCT), and the Rate Impact Measure (RIM) tests, ~~as defined in the California Standard Practices Manual: Economic Analysis of Demand Side Programs and Projects, July, 2002, ("Manual") and submitted to the Commission.~~

Each energy efficiency programs must have a TRC test benefit-cost ratio that is greater than 1.0 in order to be implemented. The Commission may grant exceptions on a case-by-case basis if the program's benefits are difficult to measure.

In applying the TRC test, the utilities shall account for non-energy impacts and other fuel savings, to the extent practical. Utilities shall work with the Mississippi Energy Efficiency Collaborative to develop estimates of non-energy impacts, within 24 months following the order adopting this rule. Costs required for any such effort, including an



independent study of non-energy impacts in Mississippi will be recovered through the utilities EM&V budgets.

The inputs for these tests shall be based as much as practicable on data local to Mississippi. The costs of program design; implementation; delivery; customer incentives; customer education and marketing; measurement of benefits; and administration are recognized parts of energy efficiency program costs that should be included in cost-benefit calculations. Cost-benefit results shall be presented for both an individual program and portfolio basis.

A utility shall use an a twenty-year evaluation period of either ten years (a natural gas utility may use an evaluation period of fifteen years) or the actual lives for each measure in a program to evaluate a program or portfolio to ensure that the cost-benefit analysis includes all, or most, of the lifetime of the energy efficiency measures installed.

Utilities may submit additional economic analyses information in support of a proposed program or portfolio.

Results of the tests shall be presented consistent with the descriptions shown in Table 1 or by other means approved by the Commission.

**TABLE 1 - Cost-Benefit Tests  
with Primary and Secondary Means of Expressing Test Results**

Primary	Secondary
<i>Participant Test</i>	
Net present value ("NPV") (all participants)	Discounted payback (years) Benefit-cost ratio ("BCR") Net present value (average participant)
<i>Ratepayer Impact Measure (RIM) Test</i>	
Lifecycle revenue impact per unit of energy (kWh or therm) or demand customer (kW)	Lifecycle revenue impact per unit Annual revenue impact (by year, per kWh, kW, therm, or customer) First-year revenue impact (per kWh, kW, therm, or customer) BCR
Net present value	
<i>Total Resource Cost (TRC) Test</i>	
Net present value	BCR Levelized cost (cents or dollars per unit of energy or demand)
<i>Program Administrator Cost (PAC) Test</i>	
Net present value	BCR Levelized cost (cents or dollars per unit of energy or demand)

The Commission will rely on the formulas as listed above in the Manual and will assess the cost-benefit test results in the public interests.

## 106 Cost Recovery

Cost recovery shall be limited to the incremental costs which represent the program costs that are not already included in the then-current utility rates and shall include full and timely recovery of program costs, ~~and lost contribution to fixed cost. The Commission may decide to limit the time period during which utilities may recover lost contributions to fixed cost.~~

A utility shall be allowed to recover lost contribution to fixed cost that is a direct result of energy efficiency measures implemented through its Quick Start Plan. The amount of recovery will require validation of the energy savings in Annual Reports to the commission. The Commission will revisit recovery of lost contribution to fixed cost associated with Comprehensive programs in a subsequent rulemaking.

To address disincentives for energy efficiency investments, the utilities may propose an approach to earn ~~a return~~ performance incentives on energy efficiency investments the Quick Start Programs through a shared-savings or performance-based mechanism. In a subsequent rulemaking the Commission will address the development of a performance incentive mechanism to ~~make these investments more like other investments on which apply consistently to all utilities earn a return for implementation of the Comprehensive Programs.~~ Prior to the Comprehensive Portfolio filing deadlines, the Commission intends to establish specific numerical energy savings targets expressed as percentages of energy sales based on the experience of Quick Start and other relevant information.

A utility may request energy efficiency cost recovery through a rider.

A utility may request that costs from approved program budgets be included in the rider. A utility may request that cost recovery begin when the energy efficiency program is implemented and offered to customers. Utilities may also propose a mechanism to adjust budgets to deal with oversubscriptions and to avoid stop-start funding.

If a utility is recovering energy efficiency program costs through a rider, the utility shall file, contemporaneous with the Annual Report under Section 107, a re-determined Energy Efficiency Cost Rate ("EECR"). In support of this re-determined rate, the utility shall file a schedule of actual program costs for the reporting period, actual amounts collected under the rider for the reporting period, and approved program budgets for the current calendar year. The EECR shall be adjusted to reflect a reconciliation of any over- or under-recovery for the prior year and the approved budget for the current Program Year.

## 107 Annual Reporting Requirements

By April 1 annually, each electric and gas utility shall file an Annual Report addressing the performance of all approved energy efficiency programs. The report shall present:

1. The results of the prescribed EM&V measures for the Portfolio and each program;
2. A description of the utility's success in achieving each of the Quick Start Plan goals identified in Section 103.1;
3. A measure of each program's savings;
4. The amounts spent on each energy efficiency program and the total amounts spent on

- all programs; and
5. Any recommendations for expansion, reduction, alteration, addition, or elimination of any programs with justifications for the recommendations.

The Commission will address Annual Reporting Requirements for Comprehensive Portfolio Plans in a subsequent rulemaking.

**108 Mississippi Energy Efficiency Collaborative**

All Quick Start Plans, Comprehensive Portfolio Plans, Annual Reports and Annual Energy Savings Targets shall be developed by the utilities with input from a variety of stakeholders. This group of interested stakeholders, including a representative from each utility, shall be named the Mississippi Energy Efficiency Collaborative, and will be charged with an ongoing mission to achieve the goals of these rules and maximize the benefits of energy efficiency programs in Mississippi.

The Mississippi Energy Efficiency Collaborative should strive to reach agreement on all issues brought before it to the greatest extent possible. Any issues that fail to reach a consensus should be summarized in detail and brought to the Commissions' attention for consideration and decision.

**109 Records**

All energy efficiency programs and measures are subject to inspection by the Commission.

All records of energy efficiency programs shall be maintained in sufficient detail to permit a thorough audit and evaluation of all program costs and program performance. This Section 109 does not limit the existing authority of the Mississippi Public Service Commission.



## Appendix B – Proposed Timeline

Timeline for MS EE Rulemaking, Quick Start and Comprehensive		Quick Start Implementation:												Comprehensive Implementation:																	
Months After Commission Order Adopting Rule 29		2'	4	6'	8	10'	12	14'	16	18'	20	22'	24	26'	28	30'	32	34'	36	38'	40	42	44'	46	48'	50	52'	54	56'	58	60
<b>Quick Start Programs</b>																															
Utilities develop QS program portfolio and submit to Commission																															
Commission reviews and makes findings on proposed Quick Start programs																															
Utilities implement Quick Start Programs																															
Utilities prepare and file Annual Report for each year of QS programs																															
Commission reviews Annual Reports for each year of QS programs and issues orders																															
<b>Comprehensive Program &amp; Reporting Rulemaking</b>																															
Collaborative develops and submits proposed rules to Commission																															
Commission reviews proposed rules and issues for comments																															
Interested parties prepare and submit comments on proposed rule																															
Commission issues final Comprehensive rules																															
<b>Comprehensive Programs</b>																															
Collaborative works with utilities to develop Comprehensive programs																															
Utilities develop Comprehensive programs and file with Commission																															
Commission makes a finding on proposed Comprehensive programs																															
Utilities begin implementation of Comprehensive programs																															
Utilities prepare and file Annual Report on Comprehensive programs																															
Commission reviews Annual Report for Comprehensive programs and issues an order																															
Purple indicates activities of the collaborative.																															
Blue indicates activities of the utilities.																															
Green indicates activities of the Commission.																															