**BEFORE THE**
**ARKANSAS PUBLIC SERVICE COMMISSION**

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| IN THE MATTER OF THE CONTINUATION, EXPANSION, AND ENHANCEMENT OF PUBLIC UTILITY ENERGY EFFICIENCY PROGRAMS IN ARKANSAS | ) ) ) ) | DOCKET NO. 13-002-U |

**JOINT COMMENTS**

Come now General Staff (Staff) of the Arkansas Public Service Commission (APSC or Commission); Entergy Arkansas, Inc. (EAI); CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Arkansas Gas; Southwestern Electric Power Company (SWEPCO); SourceGas Arkansas Inc. (f/k/a Arkansas Western Gas Company); Arkansas Oklahoma Gas Corporation (AOG); The Empire District Electric Company; Oklahoma Gas and Electric Company (OG&E); Arkansas Community Action Agencies Association, Inc. (ACAAA); Arkansas Advanced Energy Association, Inc. (AAEA); (for the purposes of these comments, these entities will be collectively referred to as the Joint Commenting Parties or JCP; the JCP is a subgroup of the Parties Working Collaboratively or the PWC[1]), and for their Joint Comments, state as follows:

In Order No. 1 of this Docket, issued on January 4, 2013, the Commission directed that the utilities and other parties that request to participate in the docket file initial comments regarding a number of significant proposed modifications to the development, structure, implementation, and evaluation of energy efficiency (EE) programs in Arkansas. The proposed modifications include substantial changes to the

[1] The entities filing these comments are not the entire PWC. Some participants in the discussions and developments of these comments will file partially or completely independent comments. Some participants in the discussions will not file comments at all.

Commission's Conservation and Energy Efficiency Rules (C&EE Rules) and the associated EE framework under which the parties are currently operating, including procedural changes for streamlining and improved policy focus, modified EE goals, refined utility EE incentive structures, the determination of avoided costs, the evaluation of program cost-effectiveness and non-energy benefits, and the implementation of an enhanced statewide collaborative process for advancing EE program comprehensiveness and continuous program improvement.

The PWC have met by phone and in person on numerous occasions to work collaboratively to prepare joint comments addressing the Commission's proposals in Order No. 1. The JCP agree with many of the Commission's proposals as described below, and the JCP recommend refinements and modifications to certain of the Commission's proposals. The PWC continue to work cooperatively and effectively to identify issues, examine those issues, develop recommendations and present those recommendations to the Commission for its consideration and approval.

On April 19, 2013 the PWC submitted a Joint Motion to request a potential study in response to the Commission's proposed EE goals for the next three-year program cycle.

Pursuant to Orders No. 1 and 2 in this Docket, the JCP submit the following Initial Comments concerning the five remaining topics.

As noted above, the JCP worked collaboratively in the development of these comments. The JCP were able to achieve unanimous agreement on many of the issues presented by the Commission in Order No. 1 and support the recommendations presented herein. The Consumer Utilities Rate Advocacy Division of the Arkansas Attorney General's Office (AG); Audubon Arkansas; the Sierra Club; Wal-Mart Stores Arkansas LLC; and the Arkansas Electric Energy Consumers and the Arkansas Gas Consumers will file completely separate individual comments. The JCP have reached unanimous agreement on all issues except for the issues listed below. EAI will file separate both general comments regarding Order No. 1 and specific comments addressing areas of disagreement concerning Avoided Costs, Non-Energy Benefits, and fixing the avoided cost for the utility EE performance incentives. With those limited exceptions, the JCP support the following comments.

## JCP Recommendation for Procedural Improvement and Revised Filing Deadlines

### Background

Since the Commission issued its C&EE Rules in 2007 and the electric and natural gas utilities began offering EE programs in Arkansas, the framework surrounding these EE programs has continued to evolve. This evolution has included the establishment of specific savings targets, comprehensive checklist factors, and an extensive independent evaluation, measurement and verification (EM&V) process. Further, the Commission also established a process for the parties to the dockets to work collaboratively to develop a form to standardize certain aspects of the utilities' and other program administrators' annual EE reports, prepare and maintain a Technical Reference Manual (TRM), propose EM&V amendments to the Commission's C&EE Rules, and address broader EE issues in Arkansas within a collaborative framework and provide consensus recommendations to the Commission for its consideration for approval.

With all of these developments and additions to the Commission's EE framework, the prescribed filing deadlines and associated procedural schedules for filings as set forth in the C&EE Rules has remained relatively unchanged. Presently the C&EE Rules require both the EE annual report and the Energy Efficiency Cost Recovery (EECR) Rider to be filed annually by April 1.[2] The significant independent EM&V review and reporting of the program results, which influence the IOUs' annual filings, have made compliance with the prescribed filing deadlines and procedural schedules set forth in the C&EE Rules difficult in many respects. Recognizing the timing issues associated with the current process, the JCP have identified changes to the current filing deadlines and schedules for annual reporting and EECR updates as presented below.

The proposal set forth herein seeks to balance a number of interests. It seeks to preserve, and hopefully enhance, existing opportunities for review of the utilities' programs and results. The PWC provides an opportunity for the parties to obtain information on the EM&V process and other general EE issues that arise (e.g., the EE framework modifications identified by the Commission in Order No. 1 in this Docket). Nonetheless, the PWC require adequate time to review specific utility proposals and budgets contemplated within the EECR filings. In addition, the current schedule presents several issues for the utilities. The prescribed filing deadlines and procedural schedules need to provide adequate time for analysis, EM&V, review, modification, and cost recovery to ensure that the C&EE Rules continue to be beneficial to the ratepayers of the electric and natural gas utilities and to the utilities themselves.

[2] C&EE Rules, Section 7, paragraph E and Section 9.

The electric and natural gas utilities have expressed concern that with the growth of the programs, and therefore increased EE program budgets, the need for concurrent recovery of costs now is even more critical for utilities to operate and maintain the investments in EE programs already made and maintain the business systems in place. The recommended procedural changes and filing schedules set forth below include a January 1 implementation date for EECR rates to provide concurrent recovery of the calendar year Commission-approved budgeted program costs, thereby eliminating the regulatory lag that exists in the current mechanism. The proposed schedule also represents a balanced approach in that recovery of incentives for the prior program year is delayed from June 1 until January 1 or a full year following the program year upon which the incentive was earned.

**The Proposed Schedule**

The JCP recommend modifications to the prescribed filing deadlines and procedural schedules that are designed to better align the completion of EM&V analysis with providing annual reports and EECR updates. Accordingly, the JCP do not recommend any other changes in the annual reporting or EECR updates, and the proposed changes relate solely to the schedule for reporting and EECR updates. The JCP recommend that the Commission change the reporting and EECR updates from April 1 to May 1. In addition, the JCP recommend that the any approved EECR Rider changes would go into effect January 1 of the subsequent year (as explained below), which will eliminate the current mismatch of program year expenditures and Commission approvals of program budgets and the EECR Rate modifications discussed above. The JCP further recommends that the EECR tariff provide for a Commission Order by September 1 following the May 1 filing.

The JCP recommend that these schedule modifications be applied to the individual utility programs as well as the jointly offered programs administered by third parties that include the Energy Efficiency Arkansas Program (EEA) and Arkansas Weatherization Program (AWP).

The JCP recommend that the Commission approve and implement this new schedule of filings in 2015, with a one-time exception to the schedule to enable transition from the current filing schedule to the proposed schedule. The annual May EECR filings (discussed above) would include the previous year's true up and the program budgets for the next program year. By way of example, the May 1, 2015 EECR filing would include the 2014 program year true-up and the projected costs for the 2016 program year. The 2016 EECR filing will include the 2015 program year true-up and the projected costs for the 2017 program year. To more clearly demonstrate how the recommended changes to the filing deadlines and procedural schedules will work, the JCP has prepared a chart of Proposed Filing Dates, provided below.

As indicated earlier, these proposed schedule changes will require implementing a transition year EECR rate adjustment. The JCP recommend the calendar year 2015 serve as the transition year. Aligning the currently prescribed filing deadlines and procedural schedules with the proposed schedules would require a one-time EECR adjustment, in addition to the proposed May 1 EECR filing, to reflect the 2015 projected cost within the EECR. The JCP recommend this adjustment be filed April 1, 2015 and implemented by the normally scheduled June 1, 2015 effective date indicated in the current tariff. The true-up of the 2014 program costs would be addressed in the May 1 filing. This one-time EECR update would be effective through December 2015 and would be superseded by the 2016 Program Year EECR update, which would become effective January 1, 2016. In subsequent years the recommended schedule would continue without the need for an additional adjustment. The JCP recommend the filing deadlines and procedural schedules are set forth below.

**Proposed Filing Dates**

| EE Filing/Event | Current Schedule | Recommended Schedule |
|---|---|---|
| 2013 Annual Report & EECR (2014 Budget / 2013 true-up) | April 1, 2014 | |
| Effective date of 2014 EECR Rate | June 1, 2014 | |
| 2015-2017 Program Filing | June 1, 2014 | |
| 2015-2017 Program Approval | | November 27, 2014 |
| 2015 EECR Rate Transition Filing (2015 Budget / no true-up) | | April 1, 2015 |
| 2014 Annual Report & EECR (2016 Budget / 2014 true-up) | | May 1, 2015 |
| Order Approving Transition Filing | | May 28, 2015 |
| Effective date of 2015 EECR Rate Adjustment | | June 1, 2015 |
| Order approving May 2015 filings | | September 1, 2015 |
| Effective date of 2016 EECR Rate | | January 1, 2016 |
| 2015 Annual Report & EECR (2017 Budget / 2015 true-up) | | May 1, 2016 |
| Order approving May 2016 filings | | September 1, 2016 |
| Effective date of 2017 EECR Rate | | January 1, 2017 |
| 2016 Annual Report & EECR (2018 Budget / 2016 true-up) | | May 1, 2017 |
| Order approving May 2017 filings | | September 1, 2017 |
| Effective date of 2018 EECR Rate | | January 1, 2018 |

## IMPLEMENTATION OF A SINGLE DOCKET

The Commission seeks comments on the issue of "implementation of a single program policy and approval docket incorporating the three-year plans of all utility EE programs" to "reduce time spent by parties and the Commission on purely procedural matters and afford more opportunity for discussion and resolution of substantive matters." The Commission correctly notes therein that preparation, review, and approval of the three-year EE Program Portfolios is a substantial undertaking, however the two days of hearings for nine dockets represents a small portion of the time dedicated to the EE programs in their entirety.

The JCP support the procedural efficiencies sought by the Commission as desirable. However, the JCP recommend that the Commission accomplish those desired procedural improvements by other and more effective means than consolidating all seven gas and electric IOUs' EE program plan filings into one all-inclusive docket. Previously, the Commission has allowed all pre-filed testimony in a proceeding to be introduced into the hearing record through stipulation, rather than requiring the parties to introduce the pre-filed testimony through each individual witness during the EE hearings. Introducing the pre-filed testimony via stipulation in each EE docket will significantly streamline the hearings.

Consolidating every portfolio filing and other EE filings for all IOUs into one docket will likely result in a massive, confusing, and difficult to manage record. Such a combined proceeding will likely increase administrative and procedural difficulties rather than reducing them. The JCP recommend against consolidating the EE filings for the IOUs into a single proceeding, because retaining separate and distinct dockets for each

IOU program plan filing will better enable the Commission to maintain a clear and distinct record for each utility's EE portfolio plan filing, improve administrative efficiency, and ensure that due process is preserved.

The Energy Conservation Endorsement Act (ECEA) (Ark. Code Ann. §§ 23-3-401 et seq.) authorizes the Commission to approve EE programs. The ECEA requires that the Commission find that each utility's EE programs are beneficial to both the utility's customers and the utility. Combining approval for all utility EE portfolios into a single consolidated docket for all IOUs would complicate the required findings regarding the beneficial nature of each individual utility's EE portfolio, which must be supported by substantial evidence. Consequently, the JCP recommend that the Commission retain the separate stand-alone dockets and records for each utility's EE portfolio approval.

Although some parties, such as Staff, the AG and ACAAA, are interested in participating in all the utilities' proceedings, other parties may only address a specific utility or a specific group of utilities (such as only electric utilities) or a specific program or programs. Addressing the EE program portfolio filings for all seven gas and electric utilities in a single, consolidated docket will, in all likelihood, result in a confusing and administratively inefficient proceeding. Consistent with the Commission's Rules of Practice and Procedure, a person or entity that desires to intervene in a docket must meet a certain threshold to show that it should be granted intervenor status and allowed to participate. Rule 3.04 (a)(1) states, "Any person having an interest which may be directly affected by the Commission's action and which interest is not adequately represented by other parties may petition the Commission for leave to intervene as party…." A party with an interest only in an electric utility case should not be, in the name of procedural expediency, granted intervenor status in a gas utility docket. The creation of a single, consolidated docket would result in an intervening party in an electric utility's proceeding effectively achieving intervenor status in a gas utility's docket when, in fact, it may not meet the requirements of Rule 3.04. Such a consolidated proceeding may be at odds with the provisions of the Commission's rules governing interventions when addressing the individual EE program portfolios of each of the seven gas and electric utilities.

The JCP recommend that a single, consolidated proceeding is not necessary to provide reduced or lower legal and administrative expenses for parties engaged in the various dockets to address the utilities' EE program portfolios. While, in a consolidated docket situation, there will be only one hearing for all utilities, the number of issues may increase due to the number of parties' testimonies which will need to be addressed by all other parties. It may be unclear whether a party is addressing all of the utilities' EE program portfolios, the portfolio of a single utility, or a single program. The hearing for a consolidated docket with all utility EE portfolios will, in all likelihood, not take any less time than the separate, consecutive hearings addressing each utility's EE filings individually. The JCP recommend that the Commission retain this practice of consecutive hearings in order to minimize the time and resources necessary for those parties who are involved in all of the utilities' EE dockets to participate effectively.

The JCP recommend that the Commission retain individual TF dockets for the review and approval of each utility's EE program portfolio and subsequent EECR filings which should result in a more efficient and effective procedure.

## REFINED UTILITY EE INCENTIVE STRUCTURE[3]

The Commission proposes a refined utility incentive structure with the stated intention to address certain shortcomings of the current utility incentive structure. The JCP supports modifying the current incentive structure. However, rather than the wholesale revision of the current incentive structure, as proposed by the Commission, the JCP recommends the modifications to the current incentive structure as set forth below.

The JCP agree with the Commission that the budget-based caps should be expanded into a range of percentages applied on a linear basis depending on performance. The JCP have identified the current two-step, non-linear program budget-based caps to be a shortcoming of the incentive structure. The two caps, which apply depending on the level of goal attainment, fail to provide an incentive to the utilities to maximize energy savings along a linear path. As the Commission notes on page 9 of Order No. 1, "[w]hen the utility moves over the threshold between 99% of target and 100% of target, it will likely see a sudden jump in the amount of the incentive from 5% to 7% of its program budget—potentially a 40% difference in incentive for a 1% increase in performance." Furthermore, a utility that expects to achieve more than 100% of goal has no incentive to attempt to achieve any energy savings above 100%, because a utility achieving 101% will receive the same incentive as a utility that achieves 120%. The Commission proposes to resolve this problem by creating a structure wherein the budget-based cap on "the incentive amount would rise linearly from 4% of approved program budgets to 8%, based on achievement." Order No. 1 at 12. The JCP agree

[3] EAI is filing individual comments addressing areas of disagreement with this section.

that a linear structure such as that proposed by the Commission will increase the utilities' incentive to maximize energy savings. The JCP, however, recommend that the budget-based cap percentage should range from 5% (at 80% goal attainment) to 15.5% (at the highest level of goal attainment, as discussed below), with 100% goal achievement being capped at 8% of budget. Such an incentive structure is consistent with national best practices. On page 10 of a report by the American Council for an Energy-Efficient Economy (ACEEE), *Carrots for Utilities: Providing Financial Returns for Utility Investments in Energy Efficiency*[4], the authors note that the average utility incentive cap is approximately 12-13%, thus leaving Arkansas (at 8%) still well below the national average for 100% goal achievement, if this proposal is adopted. The JCP recommend that the Commission adopt this incentive structure to advance its goal of maximizing energy savings. The JCP's recommendation is that the amount of incentive (available up to the budget cap) would increase from 10% to 15% of the net benefits for each year to provide an increased incentive for utilities to achieve the higher energy savings goals that are anticipated.

Second, the JCP recommend expanding the performance zone to encourage higher levels of energy savings. The JCP agree with the Commission that the performance zone (currently 80% to 110%) is too narrow. Like the current budget cap percentages, this narrow zone does not provide adequate incentives for utilities to maximize energy savings and fails to reward utilities that achieve higher than 110%. The Commission proposes to reward higher achievement by expanding the performance range up to 120%, so that the range would be 80% to 120%. The JCP

[4] http://www.aceee.org/sites/default/files/publications/researchreports/U111.pdf.

recommend that the Commission establish the performance zone such that increased energy savings results in increased incentive payments. To that end, the JCP recommend that Utilities be allowed the opportunity to earn incentives equal to 15% of the Total Resource Cost (TRC) net benefits when net energy savings are within the expanded performance zone of 80% up to 150%. The cap on the annual incentive would continue to be set as a percentage of the program budget, with 80% achievement being capped at 5% of budget, 100% achievement being capped at 8% of budget, and 150% achievement being capped at 15.5% of budget. For each additional 1% achievement between 80% and 150% of target, the budget cap is increased by 1.5%, as demonstrated in the table below.

| % of Commission Savings Target | Cap on Incentive (% of budget) |
|---|---|
| 80 | 5.0 |
| 90 | 6.5 |
| 100 | 8.0 |
| 110 | 9.5 |
| 120 | 11.0 |
| 130 | 12.5 |
| 140 | 14.0 |
| 150 | 15.5 |

Furthermore, in the ACEEE report referenced above, ACEEE notes that "when the available incentive falls within a range, most utilities have earned at the high end of the range." The JCP supports such a performance range and associated incentives to encourage the utilities to continue to offer EE programs that result in more energy savings.

The JCP recommend that the Commission keep the utility avoided cost portion of the net benefits calculation constant during each EE program cycle. The JCP agree with the Commission's statement on p. 13 of Order No. 1 that "the utility avoided cost portion of the net benefits calculation . . . [should] be held constant throughout the 3-year cycle."

The JCP recommend that the Commission modify the current incentive structure as discussed above. These modifications represent a significant improvement to the current incentive structure. However, the JCP do not recommend that the Commission implement the additional modifications to the incentive structure described in Order No.1. Those modifications will result in a more complicated incentive structure that would reduce regulatory certainty for utilities, generally cause confusion about how the incentive structure will operate, and may result in lower savings than may be achieved under the modifications of the JCP described herein.

The JCP recommend that the EE performance incentives be determined annually rather than cumulatively. In Order No. 1, the Commission proposes to change the current incentive structure such that it would institute a cumulative three-year goal that would be measured and rewarded annually. Alternatively, the JCP recommend that the Commission retain the current incentive structure with the adjustments described herein. The JCP do not support changing to an incentive structure with a three-year cumulative goal. Such an incentive structure could potentially result in the unintended consequences of essentially eliminating a utility's opportunity to earn an incentive in the latter part of the three-year period. Two potential examples of this result include: 1) if a utility's performance results in energy savings below the goals in Years 1 and 2, it could eliminate the Year 3 incentive even if the utility's Year 3 performance exceeds the goals or, 2) conversely, if a utility's performance results in energy savings well above goal in Years 1 and 2, it would serve to remove the incentive to perform well again in Year 3 if the cumulative incentive caps have been already achieved. In either event, the cumulative approach may adversely impact the utility's opportunity for an incentive in the last year of the cycle. Thus, the JCP recommend that EE performance incentives be determined annually as described herein and that the Commission not adopt the three-year cumulative approach.

Should the Commission adopt a cumulative three-year approach, the JCP recommend that the Commission not adopt a procedure to "claw-back" or require utilities to return any incentives earned in Years 1 and 2 if the utility fails to meet the three-year cumulative goal in Year 3. Most significantly, this aspect of the mechanism reduces regulatory certainty. This type of methodology could jeopardize the utilities' ability to record incentives annually if they are subject to reversal as a result of future events. This regulatory uncertainty could significantly reduce the intended impact of the incentive, which is to encourage utility management to develop, implement and actively promote EE programs that result in energy savings. A "claw-back" provision will likely have a chilling effect on EE, since Year 1 and 2 incentives will not be able to be counted by management and shareholders, because the retention of those earned incentives is too uncertain. For all these reasons, the JCP recommend that the Commission not adopt a "claw-back". Instead, the JCP recommend that the Commission retain the current structure wherein utility incentives are determined annually without a cumulative goal.

The JCP recommend that incentives continue to be calculated based on a percentage of net benefits for a single year, subject to the budget caps recommended above. Currently, EE performance incentives are determined using the actual net benefits for each year. The current mechanism uses caps based upon a percentage of program budgets. This method of determining incentives is much easier to calculate and implement than the methodology proposed by the Commission in Order No. 1. This approach should provide a more efficient and effective process than the modifications proposed in Order No. 1.

In summary, the JCP recommend that the Commission retain the current incentive mechanism subject to the modifications and revisions described herein.

## DETERMINATION OF AVOIDED COST[5]

The JCP generally agrees with the majority of the Commission's proposals related to the determination of avoided costs in Order No. 1. The JCP observe that the Commission has left sufficient opportunity for the utilities to consistently account for differences in their individual circumstances in the calculation of utility-specific avoided generation capacity, energy, and transmission and distribution capacity.

The ability of the utilities to determine, with reasonable precision, the distribution and transmission costs that are truly avoided with the implementation of EE measures remains an outstanding issue. The JCP recommend that the Commission recognize and provide allowance for factors that may limit the precision with which the utilities

[5] EAI is filing individual comments addressing areas of disagreement with this section.

determine the avoided transmission and distribution costs associated with the implementation of EE programs and measures. Finally, as the Commission noted in Order No.1, the majority of avoided cost issues that arise are electric utility avoided cost issues. While the natural gas utilities involved in these joint comments generally support the comments in their entirety, the same utilities note that the only specific issue discussed herein that is relevant to determining natural gas avoided cost is the consideration of carbon dioxide in the evaluation of EE portfolios.

**Avoided Energy Costs**

The JCP support the Commission proposal that the calculation of the costs avoided by EE programs should include the value of energy freed by EE programs and sold into the wholesale market or purchases from the market that will be avoided. In addition, the JCP support the Commission's proposal that utilities should include time and seasonal differentiation in avoided energy costs that are adequate to reasonably assess the differentiated energy value of EE at the individual program level, or at the measure level if such measure forms a significant portion of the energy savings for the overall portfolio. Most of the utilities currently include time and season differentiation in their avoided costs. At this time, the JCP have not resolved all issues related to the determination of avoided costs and do not offer a single recommendation on all issues. The JCP recommend that the Commission provide additional time for the parties to continue to work to develop recommendations on the determination of avoided costs. The following comments addressing avoided costs reflect the work of the PWC to date.

**Avoided Capacity Costs**

The JCP support the Commission proposal that the cost of a CT (combustion turbine - peaking unit), as modified to account for market conditions, and as applied to years in which the utility or relevant market area is not in surplus for capacity, is a reasonable proxy for avoided marginal capital costs. It may be necessary and appropriate to use CT based values if market based values are not available.

The JCP generally support the Commission proposal to accept avoided capacity calculations based either on actual prices that are escalated, or on modeling that is based on available market data. However, if it is foreseeable that significant investments in environmental controls may cause marginal capacity costs to change, then such foreseeable costs should be taken into account. The JCP observe that specific values for those costs may not be readily available.

The JCP generally support the Commission proposal that to the extent that the cost of non-peaking resources may be brought to the margin or avoided during the planning horizon, utilities should include those resources in the avoided capacity costs calculation. However, the JCP do not anticipate such an event is likely to occur. The JCP observe that those costs are implicit to market based pricing. Specific costs associated with non-peaking resources may not be difficult to ascertain. However, specific values for the cost of non-peaking resources “brought to the margin” or “transmission substation and line upgrade costs” may not be available. The JCP observe that analyses that focus on the avoided costs of specific projects (e.g., specific transmission projects avoided) may not provide a meaningful basis to measure costs that are avoided.

The JCP support the Commission proposal to adopt the RECC (Real Economic Carrying Charge) methodology for calculating EE avoided capacity savings to the extent a utility is using a combustion turbine as a proxy for its avoided capacity costs. However, the JCP observe that if a utility is using "market" prices, it will not have a levelized capacity price or a smooth escalation of costs. This observation is based on the forecasted capacity prices over the life of the measure - similar to how the energy is evaluated. Even with the Commission’s proposal in Order No. 1, the JCP observe that the methodology that would be used to implement an RECC for purposes of calculating avoided costs appears likely to require consideration of significant utility-specific data.

**Transmission & Distribution**

The JCP support the Commission proposal that each electric utility develop estimates of avoided transmission substation and line upgrade cost, as well as distribution substation and line upgrade cost, as elements of their avoided cost. However, the question whether specific costs for these categories can be determined to be avoided. The JCP observe that the Commission’s proposed methodology may require more consideration of utility specific data in determining avoided costs than is appropriate for that purpose.

**Line Losses**

The JCP support the Commission proposal that, because energy and demand reductions effectuated through EE programs are marginal reductions, and because marginal line losses exceed average line losses, utilities should use marginal line losses to properly reflect the costs avoided by EE programs. Certain utilities have been using marginal line loss estimates at times of peak loading and average line loss estimates during other period; however, the JCP support the use of marginal line loss estimates at all times. The JCP observe that it may be difficult to accurately determine whether specific costs for these categories will be avoided.

**Carbon Pricing**

Currently, the JCP do not have a unified recommendation regarding a common consideration of carbon dioxide ($CO_2$) costs in evaluating EE program portfolio flings. The point of greatest contention among the PWC arises around Commission proposal to include a common assumption for $CO_2$ costs. Because $CO_2$ cost assumptions have implications for other resource planning decisions, agreement on a common $CO_2$ cost assumption would only be possible if it was solely for the purposes of evaluating energy efficiency programs in Arkansas, and its use for those purposes did not imply endorsement by the utility. In Order No. 1, the Commission proposes that the PWC should identify one reasonable third-party forecast of the price of $CO_2$ allowances (or a comparable forecast of the cost of environmental compliance per ton of $CO_2$ emissions) for the common use of all Arkansas electric and natural gas utilities. At this time, the PWC are not in a position to do so. The JCP request that the Commission provide additional time for the PWC to continue evaluating this subject to determine whether the parties can develop a unified recommendation.

Through the discussions to date, the JCP participants have identified areas that require further consideration. In the event that the approved carbon price remains in effect throughout the three-year program cycle, the JCP observe that it may be difficult to isolate $CO_2$ costs as a fixed number for the duration of a three-year program cycle. Any "fixing" of the particular $CO_2$ costs will need to provide sufficient certainty to the utility planners to develop EE program portfolios and estimate the expected energy savings. Because $CO_2$ cost assumptions have implications for other resource planning decisions, it may be necessary to clarify whether a common $CO_2$ cost assumption would be used solely for the purposes of evaluating EE programs in Arkansas, and whether its use for those purposes would otherwise obligate utilities to use those estimates for any other resource planning purpose. The JCP observe that the EIA Annual Energy Outlook for assumptions including $CO_2$ prices represents a credible, publicly available, and readily accessible source that is provided at no cost. That source and others may be useful in estimating $CO_2$ cost assumptions in future avoided cost calculations. The JCP observe that market prices for capacity and energy may include implicit estimates for carbon prices. The JCP also notes that a distinction might be drawn between projections of $CO_2$ compliance costs (*e.g.*, compliance with EPA requirements) and $CO_2$ damage costs (*e.g.*, health impacts). The JCP acknowledge that the timing, scope, and scale of any carbon regulation in the future remain uncertain.

## EVALUATION OF PROGRAM COST-EFFECTIVNESS AND NON-ENERGY BENEFITS[6]

The JCP support the Commission's proposal to include appropriate, reasonably-quantifiable non-energy benefits (NEBs) in the analysis and calculation of EE cost-effectiveness, because EE programs may provide NEBs in addition to the quantified

[6] EAI is filing individual comments addressing areas of disagreement with this section.

energy savings currently quantified and evaluated. While the JCP agree that NEBs are an appropriate component of a TRC test, the JCP are not in complete agreement regarding which NEBs should be included and at what value. There is insufficient agreement regarding NEBs among the PWC to enable a specific recommendation at this time. Therefore, the JCP address certain questions raised by the Commission in Order No. 1 on cost-effectiveness issues herein and requests that the Commission provide additional time for the PWC to continue to address this issue and to provide further comments regarding specific NEBs and their values, along with additional analysis and supporting documentation, at a later date, but in time to be considered before the utilities' next EE plans and program portfolios are developed and filed for review and approval.

In Order No. 1, the Commission asked that parties comment on the current TRC calculations that do not include NEB values. The Commission requested that the parties either collaborate and propose NEB values to include in future TRC calculations, or make recommendations concerning whether and to what extent the Commission should rely on the Program Administrator's Cost Test (PACT). The JCP agree that the current TRC calculations could be improved by including appropriate, reasonably-quantifiable NEB values. Consequently, the JCP support the continued utilization of the TRC modified to include appropriate, reasonably-quantifiable NEB values. The JCP recommend that the Commission provide additional time for the parties to continue working to develop NEB values to recommend for Commission approval that will be used in future TRC calculations. The JCP do not support the use of the PACT as the primary EE program cost-effectiveness screening method. The JCP also do not support the PACT as the appropriate method to "ensure that EE programs are at least as cost-effective as other resource alternatives." The JCP recommend that the Commission continue to rely on the TRC as the primary EE program cost effectiveness screening method. The JCP recommend that same test be used in planning and evaluation of individual measures and programs and the EE portfolios as a whole.

In Order No. 1, the Commission noted that NEBs fall into at least three categories: benefits to the utility, benefits to the customers, and benefits to society not captured in utility or customer NEBs. The JCP support grouping the consideration of NEBs into those three categories and that the appropriate number and type of NEBs can be incorporated into a TRC test for determining cost-effectiveness of a measure or a program, as long as it is assigned to the appropriate measure or program.

The Commission also noted that, for NEBs such as comfort and health, in the case of weatherization services, and for the purpose of the utilities' next three-year plans, the PWC could review available data and research and recommend NEBs that can be reasonably quantified and would make a significant difference in EE program screening. The JCP recommend that the parties work to develop recommendations regarding NEBs that can be reasonably quantified for inclusion in future TRC calculations and EE program evaluations.

Although the JCP do not support the use of the PACT as the primary EE program screening method, the JCP recommend that the Commission continue to require the presentation of all four standard cost-effectiveness tests. The Commission should continue its current practice of considering the results of all of the standard tests, as appropriate, in its review and consideration of EE programs and portfolios. The JCP recommend that the Commission continue to retain flexibility in regard to the cost-effectiveness of education, training, and marketing programs that may not individually pass the TRC or other standard tests as an essential element of a portfolio that is cost-effective overall.

## IMPLEMNTATION OF AN ENHANCED STATEWIDE COLLABORATIVE PROCESS FOR ADVANCING EE PROGRAM COMPREHENSIVENESS AND CONTINUOUS PROGRAM IMPROVEMENT

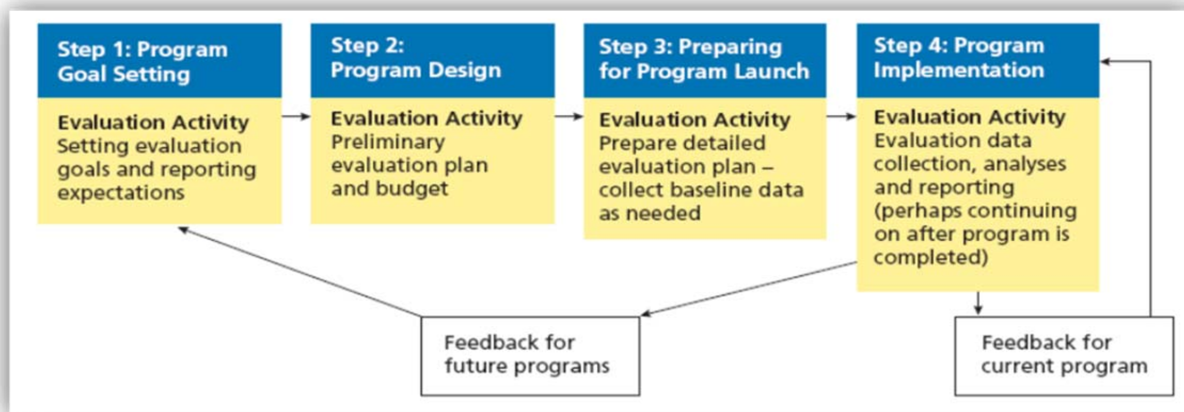
In Order No. 1, the Commission proposed the development of a Continuous Program Improvement Collaborative (CPIC) to assist in the development and improvement of EE programs and policies in the state. The JCP respectfully observe that the development of this new collaborative under the direction of a new third-party facilitator is not needed. There are existing Commission-sanctioned structures in place to address these and other issues. The existing framework of the PWC and the EM&V activities with the direction and input of the Independent Evaluation Monitor (IEM) are effective forums to address these and other issues.

The PWC have worked effectively to develop the EM&V Protocols and TRM which were approved by the Commission in Order Nos. 2, 11 and 17 of Docket No. 10-100-R. The individual utilities, utility contractors, the PWC and the IEM have worked cooperatively to conduct reviews of each utility's EE program portfolios and to identify modifications and improvements to those portfolios consistent with the Commission approved TRM. The PWC have also worked effectively to develop and to improve the reporting guidelines and formats that were approved by the Commission in Order No. 14 of Docket No. 10-010-U. Those annual report forms provide the information that is used annually to evaluate the results and performance of each utility's EE program portfolio. The PWC provides an appropriate and effective forum to address the issues that the Commission has identified for the CPIC and the JCP argue that it is not necessary to create an additional process to address those issues. The creation of a duplicate process will result in additional costs and activities that are not required. To the extent that additional third-party consultants may be required to assist in these efforts, the Commission may direct or the PWC may request authorization to engage such consultants to provide input and assistance to the PWC in preparing recommendations to bring to the Commission for consideration and approval. By way of example, see the PWC request to engage a third-party consultant to assist in the conduct of a Potential Study that was filed in this docket on April 19, 2013. The PWC have been and continues to be an effective working group through which the parties and EE stakeholders are able to identify issues and work collaboratively to develop potential solutions, with the goal ultimately being to present such issues, along with recommendations, to the Commission for approval. The JCP do not support the creation of an additional separate process that will likely result in additional cost and potential duplication of efforts.

Additionally, EM&V activities and planning activities are interrelated and should not be separated. The National Action Plan for Energy Efficiency (NAPEE 2007) illustrates the critical role that EM&V plays in providing on-going feedback to future program planning. As the following feedback loop shows, one of the most important functions of program evaluation is to provide a feedback loop that will allow for program changes and enhancements in a timely manner. This feedback loop is illustrated in

Figure 1 (NAPEE 2007), which is a cornerstone of the EM&V Protocols that the PWC developed in 2011.

**Figure 1: Program Evaluation Feedback Loop**




Source: NAPEE 2007

In accordance with both industry "best practices" and the Arkansas EM&V Protocols, the PWC currently conducts many of the specific tasks that were outlined in Order No.1. The following gap analysis identifies where the current PWC activities, as part of its EM&V responsibilities, are currently addressing the specific needs identified by the Commission. It also identifies those areas that are not currently addressed by the EM&V activities, and thus may require additional PWC activities and possible additional support from outside expertise. However, the JCP do not support establishing a separate independent CPIC, since that would lead to unnecessary duplication of efforts and increased regulatory expenses for the utilities, their customers, and other parties. These activities should continue to be performed by the PWC with additional support from additional third parties as required.

The following gap analysis compares the current activities that the PWC are conducting through its EM&V activities to the additional requirements identified in the Commission Order No. 1.

**Table 1: Gap Analysis Comparison**

| **Commission Order** | **Current PWC EM&V Activities** | **New Requirement for CPIC- U Collaborative** |
|---|---|---|
| Standardization through Procedural Changes | EM&V Protocols;<br>TRM 2.0;<br>IEM EM&V Annual Report;<br>Comparing EM&V Results | Accounting for the cross-fuel benefits of weatherization;<br>Focus on National Accounts;<br>Industrial EE Programs |
| Avoided Costs | The PWC are currently discussing the appropriate determination of avoided costs in consideration of issues raised by the Commission and parties in prior EE dockets as well as the issues raised by the Commission in Order No. 1. | Reasonable $CO_2$ Costs |
| NEBs & Program Costs | Can be addressed through EM&V Protocols | |
| Engagement of Facilitator | PWC work collaboratively to address issues and bring recommendations to the Commission. PWC works collaboratively with the IEM to conduct EM&V activities, including identifying needed modifications and improvements to EE program portfolios, and to bring recommendations to the Commission as needed. | Utility Program Development- No current role in Arkansas |
| | As part of the EM&V activities the IEM works with the PWC to | Promote Program Consistency |

| Commission Order | Current PWC EM&V Activities | New Requirement for CPIC- U Collaborative |
|---|---|---|
| Scope of Work | identify opportunities to incorporate successful actions from one utility to another as applicable. | |
| | Incorporate Lessons Learned from past EE activities | |
| | As part of the EM&V activities, the IEM provides information to the utilities and the PWC regarding advances in technologies and best practices regarding EE program development and implementation. | Assess new energy efficiency technologies for program planning |
| | Maximize customer and utility benefits of programs | |
| | As part of the EM&V process, the IEM works with the PWC to bring information regarding current developments and best practices to the parties and the Commission. Further, the PWC regularly meets and works to increase understanding and, when appropriate, bring recommendations to the Commission addressing opportunities to improve the EE program portfolios of the utilities and the reporting and EM&V activities related to those programs. | Elevate the level of understanding of the stakeholders and the Commission on EE planning, programs, and performance |
| Scope of Work | Further increase consistency, transparency, and comparability among programs | |

| Commission Order | Current PWC EM&V Activities | New Requirement for CPIC- U Collaborative |
|---|---|---|
| Continued | across the state | |
| | Provide a forum for addressing differences among stakeholders | |
| | The PWC works in cooperation with the IEM to identify issues, informally resolve issues when possible, and to bring recommendations to the Commission for its consideration and approval as required. | Formalize a process to engage technical expertise and set forth a procedure for narrowing the number of issues requiring Commission action, while allowing for the referral of unresolved issues |
| | Strengthening utility EE programs with various delivery options to capture the greatest number of participants. | Standardized statewide programs including industrial custom program- |
| | Pulaski Tech and NWACC currently offer standardized weatherization training programs. | Offer standardized approach for weatherization, certification and training |
| | Can be informed by Act 253 | Push opportunities for greater involvement of Self-Direct Customers |
| | Employ similar EM&V procedures | |
| | Can be informed by Acts: 1252; 1074; 554 | Develop residential financing options |
| | Can be informed by EM&V findings | Develop and submit for approval any NEBs appropriate to EE measures and programs to include in cost-effectiveness analyses using the TRC. |
| | | Separating utility programs for new construction activities from |

| Commission Order | Current PWC EM&V Activities | New Requirement for CPIC- U Collaborative |
|---|---|---|
| | | retrofit programs. |
| | Strengthening utility EE programs with various delivery options to capture the greatest number of participants. | |
| | Evaluating and improving utility planning assumptions, so that the EE plans provide a better reflection of the likely energy savings per participant, the cost per participant, and the number of participants. | |
| The Commission recommends that the CPIC develop a statewide database that allows centralized reporting and tracking over time of program participation and energy savings | EM&V Protocol A provides guidance to standardize the data collection requirements as a way to facilitate reporting for EM&V.<br>Per the recommendations from the IEM 2012 Report, the utilities spent significant customer funds to develop and improve their existing databases to facilitate tracking and reporting of key customer metrics. | |
| Exploring the benefits and challenges involved in establishing and maintaining a statewide database | | |

As Table 1 shows, the current PWC activities are already addressing the following key issues:

- Standardization through Procedural Changes
- NEBs & Program Costs

- Scope of Work
  - Incorporate lessons learned from past EE activities
  - Maximize customer and utility benefits of programs
  - Further increase consistency, transparency, and comparability among programs across the state
  - Provide a forum for addressing differences among stakeholders
  - Employ similar EM&V procedures
  - Strengthening utility EE programs with various delivery options to capture the greatest number of participants.
  - Evaluating and improving utility planning assumptions, so that the EE plans provide a better reflection of the likely energy savings per participant, the cost per participant, and the number of participants.

**Developing a Statewide Database**

Regarding one of the Commission's proposals—the creation of a statewide database—the JCP do not support the creation of such a database at this time. Although there many are benefits to establishing a statewide database, creating a statewide database years after program initiation raises the following concerns among JCP members:

- A statewide database is duplicative with current program databases;
- It is a costly and time consuming undertaking; and
- Customer confidentiality may not be possible to safeguard under the auspices of a state agency.

As Table 1 shows, the JCP assert that creation of such a database would be a duplicative and costly process. In addition, as Table 1 shows, the specifications for collecting and reporting critical program data are addressed in the EM&V Protocol A: Data Collection Requirements and in EM&V reports and analysis. Therefore, the JCP do not believe it is a wise use of ratepayer funds to spend additional funds duplicating current program databases located within each utility or program administrator.

Creating a new statewide database is also a complex and time consuming task. The utilities estimate that minimum time to implement this type of database is between 12 to 18 months as this database would need to be customized to meet the specific needs of the individual programs. Customization for this type of database would include, but not be limited to:

- Developing the algorithms to calculate savings
- Building out specific program workflows
- Generating user access levels
- Creating input mechanisms to achieve efficiencies (mass data uploads for large scale projects, etc.)
- Developing reports
- Linking with accounting systems for streamlined incentive processing with real time updates; this is often required to comply with data security protocols (internal security protocols) and fraud prevention
- System testing and user acceptance testing
- User training

An additional third concern is that the utilities and program administrators are concerned that there be sufficient safeguards in place to protect and insure customer confidentiality. These safeguards may not be possible within the confines of a state agency.

**Hiring a New Facilitator**

Regarding the Commission's proposal to hire a new facilitator for the CPIC, the seven electric and gas utilities currently secure the services of experienced national and international consulting firms that develop, design and implement "best in class" EE efforts. Some of the firms currently providing services in Arkansas are nationally-recognized experts who provide ongoing guidance regarding EE program planning, development, and implementation to a variety of entities including the Department of Energy and the American Council for Energy Efficient Economy (ACEEE). The PWC process is working well in its current form. Engaging a facilitator who is unfamiliar with the particular concerns, market barriers, or challenges unique to Arkansas would require costs and expenses associated with "getting up to speed" with the Arkansas EE community and is not necessary at this time. Rather, the JCP recommend that technical experts be hired as needed to assist the PWC with issues as they arise, including program planning, financing, cross-company program coordination, or others.

As the experience of the utilities implementing EE has grown since the Commission adopted its C&EE Rules, the level of understanding of the stakeholders and the Commission on EE planning, programs, and performance also continues to grow. The current EM&V activities under the direction of the IEM already supports better consistency, transparency, and comparability among programs across the state while also preserving the utilities' ability to design, propose and implement EE programs that are the best fit for their respective customers. The JCP expect this level of understanding will improve once stakeholders and the Commission have had a chance to review the various utilities' 2012 Program Year Annual Reports, Evaluation Reports, and the IEM's report.

**Promoting Program Consistency**

In Order No. 1, the Commission identified program consistency as an area of focus for the CPIC. The JCP agree that, where possible, consistency among the programs of the seven electric and gas utilities is desirable. However, the JCP observe that program consistency is not necessarily achievable in all sectors of the Arkansas market. As the 2012 EM&V findings illustrate, each utility faces unique challenges and barriers to program implementation. While it may be beneficial to offer customers the same program design to the greatest extent possible, it is not practical to offer completely uniform program portfolios for each utility. Many states that began mandating statewide programs subsequently modified this stance after realizing that customers are not homogeneous from one utility to another.

Where possible, the IEM has encouraged and continues to encourage utilities to work collaboratively to develop EE programs that offer economies of scale, such as the AWP, EEA, and the weatherization program offered by AOG and OG&E.

Currently, the PWC promote program consistency across the state where appropriate. For example, SWEPCO is currently considering the A/C tune-up program currently implemented by Entergy. SWEPCO is also considering modifications to its Home Performance with ENERGY STAR® Program to more closely align with Entergy's

Home Energy Solutions Program. The AOG / OGE weatherization program is an example of inter-fuel and inter-company program design. Through the PWC, the utilities and other parties are already sharing best practices regarding their program design and implementation practices. This sharing of best practices will continue to improve as the parties become better informed by ongoing EM&V findings, with the result that program uniformity is likely to increase where appropriate. This will generally seek to maximize customer and utility benefits available from the EE programs over time.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served on all parties of record by forwarding the same by postage prepaid first class mail, hand delivery, or electronic mail, this 15th day of May 2013.

/s/ *Fran C. Hickman*
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