



Energy Efficiency Policy Rules: Options and Alternatives for Illinois

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Overview of Presentation



1. Background
 2. The Scope and Structure of EE Policy Rules in Other States
 3. State Experience in Developing EE Rules
 4. Issues to Consider for Illinois
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The Illinois Policy Context



- **Illinois Public Act 95-0481 (section 12-103) requires utilities to implement cost-effective EE (and DR) programs to meet goals**
 - **Incremental Annual Savings Goals**
 - **Establishes spending screen; limits EE plan affect on rates**
 - **Utilities responsible for design, development & filing of periodic EE plans**
 - **Cost recovery thru automatic adjustment clause tariff**
 - **EE Plan requirements (e.g. demonstrate Cost-Effectiveness, target low-income, independent evaluation of net program impacts)**
 - **Consequences for failure to achieve savings goals**

 - **ICC Orders approve utility EE plans and resolve contested issues**
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ICC Direction on Consideration of EE Policy Rules



From Order Nos. 07-0539 and 07-0540:

*“The Commission finds that these workshops will provide an excellent opportunity for Commission Staff, utilities and stakeholders to anticipate, learn about and address generic technical, program design, financing, evaluation, new technology and longer-term implementation issues – including but not limited to standards regarding the accounting of the funds collected, the appropriate measure savings values, Net to Gross ratios, financial compliance, program information tracking and reporting, and related issues...**The outcome of these workshops shall be in the form of a Staff report, setting forth Staff’s recommendations regarding what rules, if any, need to be developed.**”*

Broad Options for Creating an EE Policy Framework



- **Oversight of ratepayer-funded EE programs involves program planning and budget, cost-effectiveness screening, program evaluation, and ratemaking/cost-recovery**
 - **Statutes often provide explicit guidance regarding EE**
 - **Sometimes very general, delegating all or nearly all implementation details to the commission**
 - **Sometimes very specific implementation details are in the law**
 - **Commissions can develop the necessary policy framework through one or more of the following:**
 1. Adopting a broad set of EE Policy Rules
 2. Addressing individual topics in specific adjudicated contested cases, either generically or utility-specific
 3. Providing informal guidance
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What are EE Policy Rules?



- **Often a stand-alone set of rules or incorporated into broader IRP rules**
 - **Intended to provide guidance, confidence, stability to energy efficiency administration and oversight**
 - **Often an extension of and elaboration on policies delineated in pre-existing legislative statute**
 - Add detail consistent with statutory language
 - Address other policy and implementation issues not addressed in statute
 - **Policy Rules often focus on describing the requirements for EE Program Plan filings and reporting**
 - **Other topics are often addressed at a fairly high level (except when detail is preferred)**
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Topics Covered in Other States' EE Policy Rules



Topic	AZ	AR	CA	CO	IA	MN	NM	WA
Overarching policy goals	✓	✓	✓	✓			✓	
Roles and responsibilities of administrator & implementers	✓	✓	✓	✓			✓	
EE Program Plans: content and procedural requirements	✓	✓		✓	✓	✓	✓	✓
EE Program Plans: stakeholder process			✓		✓	✓	✓	✓
Interim reporting requirements	✓	✓	✓	✓	✓	✓	✓	✓
Use of EE Program Funds	✓		✓				✓	
Market potential studies	✓	✓			✓		✓	✓
Cost-effectiveness tests	✓	✓	✓		✓	✓	✓	✓
Evaluation, measurement & verification	✓	✓	✓				✓	
Cost-recovery	✓	✓		✓	✓	✓	✓	
Utility incentives and/or decoupling		✓	✓				✓	

Note: absence of a check mark may simply mean that this topic has been addressed separately from the EE policy rules in that particular state

Policy Goals



- EE Policy Rules often include a statement of overarching policy goals/objectives to guide EE plan development
 - How much savings to acquire (e.g., meet or exceed state EEPS targets, acquire all cost-effective EE)
 - Policy priorities (e.g., minimize costs, minimize rate impacts, provide opportunities for all customers, maximize peak demand savings, market transformation)

 - Clear policy statement in statute may make restating in rule unnecessary
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Examples of Policy Goals in State EE Policy Rules



California:

[C]ost-effective energy efficiency should be first in the 'loading order' of resources used by utilities to meet their customers' energy service needs.

Arizona:

The following objectives shall be considered in the advancement and implementation of cost effective and prudent demand-side management initiatives:

- 1) Achieve cost-effective energy savings and peak demand reductions;*
 - 2) Advance market transformation to achieve cost-effective DSM benefits through approaches that achieve sustainable savings and reduce the need for future market interventions;*
 - 3) Ensure a level of program funding adequate to achieve the DSM targets;*
 - 4) Implement DSM programs that provide an opportunity for all utility customer segments to participate; and*
 - 5) Allocate a portion of DSM resources to the low-income customer segment.*
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EE Program Plans: Content



- EE Policy Rules often focus on identifying the required content/structure of EE Program Plans
- At a minimum, EE Plans are typically required to include:
 - Program description, budget, estimated energy and peak demand savings, estimated cost effectiveness (at program and portfolio level), EM&V plan
- Examples of other items that EE Program Plans may be required to include:
 - Specific details in the program descriptions (*e.g., Arkansas' rules require that program descriptions identify: target market, services provided, incentive levels, barriers addressed, plans for managing oversubscription*)
 - Estimated customer bill and rate impacts (*Iowa, New Mexico*)
- EE Rules may also explicitly allow utilities to include in their EE Program Plans proposals for addressing the throughput incentive and/or utility incentives (*Arizona, New Mexico*) or cost-recovery (*MN*)

Cost-Effectiveness Tests



- EE Policy Rules typically provide some direction regarding the choice and use of cost-effectiveness tests
 - Most states' EE Policy Rules identify what type(s) of tests are to be **conducted** (e.g., societal, total resource cost, utility cost, ratepayer impact) and may also:
 - Define each required test or refer to the California Standard Practice Manual
 - Identify required inputs for each test
 - Explicitly require sensitivity analyses
 - Policy Rules may or may not also identify which tests individual programs, or the portfolio as a whole, are required to **pass**
 - If left unspecified, the issue may be addressed by the Commission on a case-by-case basis
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EE Program Plans: Stakeholder Process



- EE Policy Rules may require that program administrators facilitate stakeholder participation when developing EE Program Plans
 - Policy Rules may further specify particular details about the stakeholder participation process:
 - Forum for stakeholder participation (e.g., public hearings, advisory groups, formal collaborative body)
 - Minimum amount of time that stakeholders must be provided to offer comments prior to filing the Plan with the Commission
 - Function, formation, and governance of any advisory groups (*California*)
 - Policy Rules may require that program administrators report on the stakeholder participation process within their EE Program Plan filings
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EE Program Plans: Procedural Requirements



- How frequently EE Program Plans are to be filed
 - Conditions under which penalties may be imposed, if any, for missing filing deadlines
 - EE Policy Rules often also describe various procedural requirements for the Commission's review of EE Program Plans:
 - Responsibilities for maintaining a service list
 - Form of public participation (e.g., hearings, stakeholder workshops, comment periods)
 - Timeframe for key milestones within the review process (e.g., determination that filing is complete, comment periods, final decision)
 - Whether other parties are able to make alternate program proposals within the EE plan docket (*Minnesota, Iowa*)
 - Type of decisions that a commission may issue – e.g., “approval, disapproval, or approval with modification” (*Minnesota, Colorado, Washington*)
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Interim Reporting Requirements



- Many states' EE Policy Rules require that program administrators file interim progress reports, on at least an annual basis
 - Some states (*e.g., Arizona*) require quarterly expense reports in addition to annual progress reports
 - EE Policy Rules typically require that interim progress reports contain:
 - Program results to-date (*e.g., participation rates, expenditures, estimated energy and peak demand savings, preliminary cost-effectiveness results*)
 - Discussion of any problems encountered and proposals for mid-stream modifications (*e.g., fund-shifting between programs, changes to incentive levels*)
 - EE Policy Rules may also specify any procedural requirements related to the Commission's review of interim reports
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Evaluation, Measurement, and Verification (EM&V)



- EE Policy Rules often include a general statement that program administrators are required to conduct EM&V
 - Policy Rules may also include requirements about the **scope and process** of EM&V efforts, for example:
 - The type of EM&V studies to be conducted (e.g., impact evaluations, process evaluations, measure retention studies)
 - Oversight of EM&V process (e.g., selection of EM&V contractors)
 - Process for updating deemed savings estimates to reflect M&V results
 - Specific M&V protocols are developed outside of the EE Policy Rules. However, Policy Rules may identify general requirements that those protocols must satisfy – for example:
 - *Arkansas*: M&V protocols must adhere to an “industry accepted protocol approved by the Commission”
 - *New Mexico*: Any deviation of M&V protocols from the IPMVP must be explained
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Cost Recovery



- EE Policy Rules may identify the **types of EE program costs** that utilities may recover (*Arizona*)
 - ...as well as the **types of cost recovery mechanisms** (e.g., tariff rider, balancing account, general rate case) that a utility could implement and the process by which a utility could propose a particular mechanism (*AZ, AR, IA, MN, NM*)
 - However, Policy Rules generally **do not specify the precise mechanics** of how the cost recovery mechanism is implemented (*Iowa* being one exception)
 - Policy Rules may also specify the **conditions under which cost recovery could be disallowed** in future prudence reviews or ratemaking proceedings (*Colorado, Iowa*)
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Other Topics Addressed in EE Policy Rules (1)



- **Program Administration:** EE Policy Rules may explicitly identify what entities are responsible for program administration and/or may explicitly authorize the Commission to select third-party program administrators (*Arizona, Arkansas, New Mexico*)
 - **Market Potential Studies:** EE Policy Rules may explicitly require that program administrators conduct market potential studies in support of their EE Program Plans and savings goals, and that they include such studies as part of their Plan filing (*Iowa, Washington*)
 - **Allocation of Program Funding :** Policy Rules may require that funding be allocated proportionally among different customer classes (*Arizona*) or allow for exceptions or focus on a particular customer group, like low income customers
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Other Topics Addressed in EE Policy Rules (2)



- **Fund-Shifting:** Policy Rules may specify whether, and to what extent, program administrators may shift funds between programs and/or between years (i.e., carry-over and carry-back) allowed without prior Commission approval (*California*)
 - **Self-Direct EE Programs:** Policy Rules may specify whether large customers may opt out of contributing to EE program funding in exchange for self-directed energy efficiency improvements (*New Mexico*)
 - **Throughput Incentive Mitigation and Shareholder Incentives:** In several states, EE Policy Rules contain provisions explicitly allowing utilities to propose decoupling, lost revenue adjustments and/or shareholder incentive mechanisms (*Arizona, New Mexico*), though the details are typically addressed outside of EE Policy Rules
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Definitions



- **All rules have a section for definitions**
 - **Many are standard, yet content varies**
 - **Other definitions emerge from local preferences and controversies of the day**
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Some Energy Efficiency Definitions



- energy efficiency means measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices, to result in a decrease in consumption of electricity or natural gas without reducing the level or quality of energy services (NM);
- *“Energy efficiency measures” means activities on the customers’ side of the meter which reduce customers’ energy use or demand including, but not limited to, end-use efficiency improvements; load control or load management; thermal energy storage; or pricing strategies (IA);*
- **Energy Efficiency - Reducing the rate at which energy is used by equipment and or processes while maintaining or improving the customer’s existing level of comfort and end-use functionality at a lower customer cost. Reduction in the rate of energy used may be achieved by substituting more advanced technology or by reorganizing the process to reduce waste heat, waste cooling, or energy. Demand response is a form of energy efficiency. (AR)**

Development & Structure of EE Policy Rules: California



- Policy rules contained within the *Energy Efficiency Policy Manual*
 - Manual also includes key reference documents (e.g., EM&V protocol, Standard Practice Manual, as an Appendix)
 - A “living document” (currently Version 4.0) updated periodically to reflect new Commission policies and other changes
- Policy rules adopted through a combination of a broad rulemaking and adjudicated cases addressing specific topics
- Post-restructuring rulemaking updated EE policy rules
 - Initiated in 2001; decision (D.05-04-051) issued in 2005 after administrative structure resolved
 - Decision addressed wide range of issues: policy objectives, program funding guidelines, cost effectiveness, M&V, competitive bidding, advisory groups
- More recent decisions have been issued addressing specific topics:
 - Shareholder incentives (D.07-09-043)
 - Updated savings goals and counting rules for free-riders (D.08-07-047)

Development & Structure of EE Policy Rules: Iowa



- More like procedures
 - A lot of detail about program plan content, process, cost effectiveness evaluation, guidance on setting savings targets
 - Transparency and proposals from others must be considered by the utility
 - Standardized and clear reports and data
 - A lot of information on avoided cost and supply margins is required
 - Cost recovery, including a rider, booking and deferring overspending, and other accounting details
 - 1999
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Development & Structure of EE Policy Rules: **New Mexico**



- Policy rules adopted through a collaborative rulemaking (2007)
 - Contemporaneous with IRP rule
 - New rulemaking on incentives underway now
 - Filing and process requirements
 - Standard program description, tariff rider adjustment process
 - Criteria for program selection and modification
 - Market transformation programs evaluated as part of portfolio
 - Cost effectiveness tests and assumptions
 - Proposals to “eliminate disincentives or barriers” invited
 - Later law also authorizes incentives more attractive than supply
 - Programs for distinct classes
 - Low income
 - Self direct for large customers
 - Independent M&V (controlled by the commission)
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Development & Structure of EE Policy Rules: **New Mexico rule purpose**



- **The purposes of this rule is [sic] to implement the Efficient Use of Energy Act such that public utilities and distribution cooperative utilities include cost-effective energy efficiency and load management investments in their energy resource portfolios; and to set forth the commission's policy and requirements for energy efficiency and load management programs.**
 - The language goes on to frame energy efficiency as a supply alternative.
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Development & Structure of EE Policy Rules: **Arkansas**



- Rules based on 1977 law (D. 06-004-R Order 18, 2007)
 - Policy rules adopted through a collaborative
 - IRP rules adopted in a parallel effort
 - Detailed purpose section and a section enumerating several substantive and process objectives for utility EE programs
 - Independent administrator authorized
 - Guidelines for programs
 - Guidelines for customer incentives (unusual)
 - Promotes standardization
 - Fuel switching not allowed
 - M&V part of programs; details to be proposed by administrators
 - Cost recovery via rider
 - Cost effectiveness detail relies on CA, but not exclusively
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Arkansas Objectives



- **Energy savings directly attributable to program activities;**
 - **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;**
 - **Permanent peak electric demand reduction;**
 - **Energy cost savings and cost-effectiveness;**
 - **Reliability enhancements;**
 - **Energy security benefits;**
 - **Environmental benefits;**
 - **Economic development/competitiveness benefits;**
 - **Increases in system-wide capacity;**
 - **Accelerating the commercialization of advanced or emerging technologies;**
 - **Improving affordability of energy for all customers; and**
 - **Implementing programs in an efficient manner**
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Development & Structure of EE Policy Rules: **Washington**



- Implementing 2007 law
 - Not comprehensive – appears to address specific, detailed issues
 - Potential assessment every two years, consistent with IRP or regional plan (northwest does independent regional planning) looking out ten years
 - Utility specific targets for following two years
 - Penalties for missing targets
 - Reporting and process requirements
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Development & Structure of EE Policy Rules: **Minnesota**



- Rules applies to Dept of Public Service, not commission
 - Dovetails with commission IRP rule
 - Process requirements (2 year intervals)
 - Timing staggers electric and gas filings; detailed timelines included
 - Template (project information sheet) for each program
 - Annual reporting
 - Public process by utility
 - Staff (DPS) makes program approval decisions
 - And decisions on changes and can initiate changes
 - 2005
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Case by Case Approaches to Generic Issues: Massachusetts



Overarching policy goals	From 1998 statute
Roles and responsibilities of administrator & implementers	From 1998 statute
EE Program Plans: content and procedural requirements	2000 Commission order, then emerges from collaborative and Energy Office administration
EE Program Plans: stakeholder process	Collaborative culture driven lately by Energy Office
Interim reporting requirements	Required by energy office
Use of EE Program Funds	PUC order, then driven by collaborative, Energy Office
Market potential studies	Not required, done as needed
Cost-effectiveness tests	Modified TRC after litigation stopped Soc Test
Evaluation, measurement & verification	Responsibility of Energy Office (independent)
Cost-recovery	Fixed SBC funds EE budgets
Utility incentives and/or decoupling	No decoupling/lost rev. and capped incentive based on (net) performance against targets approved by PUC

Background Details on Massachusetts



- Collaborative initiated by parties (CLF) independently. Never any formal status but commission accepted settlements with few if any changes over many years. Note AG has not signed any settlements for the last few years and increasingly active as an intervenor.
- Collaborative has no set membership, no set rules, operates on consensus basis. Collaborative hires consultants, paid by utilities and controlled by DOER
- EMV process is collaborative with strong input from non-utility party consultants and increasingly DOER. DOER has occasionally dictated budget levels and specific studies but mostly it's a 3-way negotiation in good faith. Utilities write the RFP's, often with consultant input, do the procurement and manage the studies. Consultant often has input during studies and in draft and final reports. DOER occasionally active on studies based on available staff resources.
- DPU was 5 years behind reviewing Program Administrator annual reports until 2007, so there have been lots of questions about budgets/expenditures but none challenging savings or performance incentive claims.

When are Rules a Good Idea



➤ Culture

- In some states, the structure is a comfort and rules feel right

➤ When energy efficiency is not second nature or seems complex

- Early adopting states “just did it”
- More recently adopting states may not find implementation so intuitive, so written guidance helps and lends discipline

➤ When resolving generic issues once and for all time is valuable

➤ When standardization and consistency are values

- Cost of administration and quality of tracking over time can be improved if reporting and other practices are the same for all companies

➤ When connecting with the legislature is important

- Rule approval can serve as a useful check in with the legislature, encouraging a constructive relationship with the commission on EE
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Rule Content Advice: Fundamentals Apply



- **Rules should serve the needs of the stakeholders, especially the commission**
 - If regulation can be more efficient with rules, rules look good
 - If commission foresees chaos without rules, rules look very good
 - **Rules should be as timeless as possible**
 - **Rules should start where statute ends**
 - Rules are especially useful concerning process matter like deadlines, report structure
 - **Rules should be reliable but not unchangeable**
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Links to State Rules



- **California:** California Energy Efficiency Policy Manual, Vers. 4.0; <http://www.cpuc.ca.gov/NR/rdonlyres/2737D0E6-7163-46ED-B6DA-16A817FF3AF8/0/PolicyManualv4.pdf>
- **Iowa:** Iowa Administrative Code 199-35; http://www.legis.state.ia.us/ACO/IAhtml/199.htm#chapter_199_35
- **New Mexico:** New Mexico Administrative Code 17.7.2; <http://www.nmcpr.state.nm.us/NMAC/parts/title17/17.007.0002.htm>
- **Arkansas:** Arkansas Administrative Rules 126.03.07-005; <http://170.94.37.152/REGS/126.03.07-005F-9109.pdf>
- **Washington:** Washington Administrative Code 480-109; <http://apps.leg.wa.gov/WAC/default.aspx?cite=480-109&full=true>
- **Minnesota:** Minnesota Administrative Rules 7690; <https://www.revisor.leg.state.mn.us/rules/?id=7690&view=chapter>