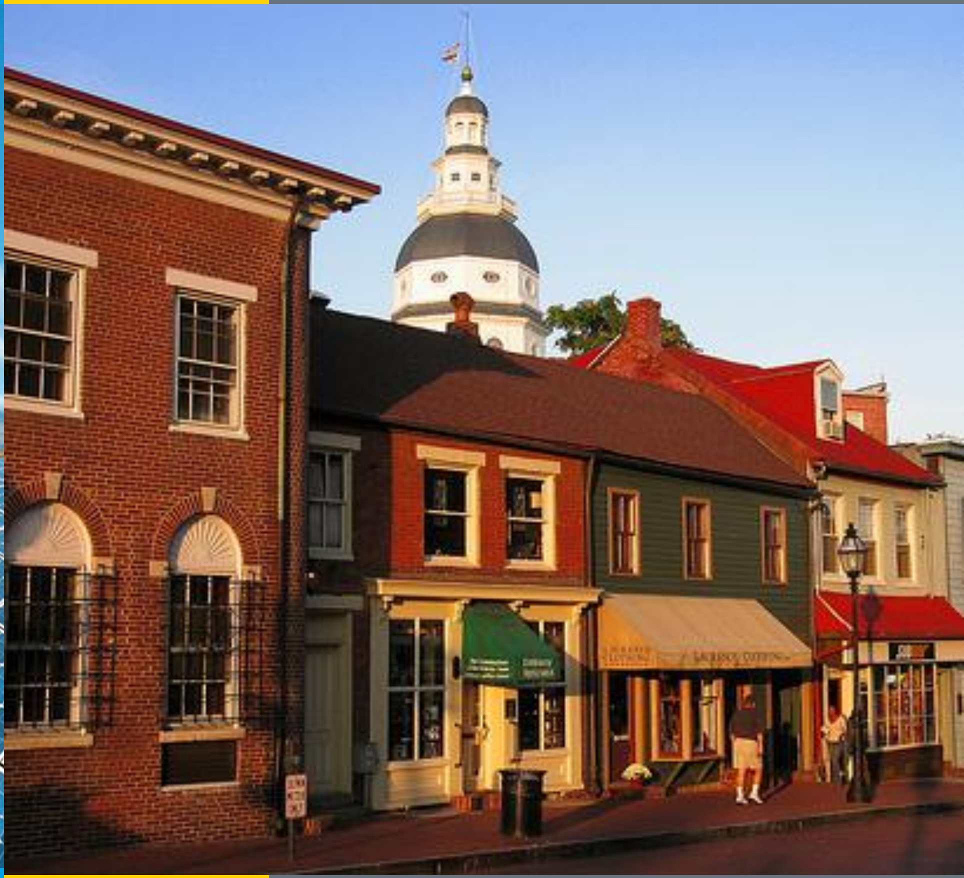
DOE Technical Assistance Program

U.S. DEPARTMENT OF ENERGY | Energy Efficiency & Renewable Energy



Collaboration and Consensus Building in States to Support Energy Efficiency as a Resource

November 22, 2011

Presenters:
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Commission Legal Advisors
Arkansas Public Service Commission

What is TAP?

U.S. DEPARTMENT OF ENERGY | Energy Efficiency & Renewable Energy

DOE's Technical Assistance Program (TAP) supports the Energy Efficiency and Conservation Block Grant Program (EECBG) and the State Energy Program (SEP) by providing state, local, and tribal officials the tools and resources needed to implement successful and sustainable clean energy programs.

TAP web portal: http://www1.eere.energy.gov/wip/solutioncenter/

TAP offers:

- One-on-one assistance with EE and RE program/project design and implementation
- Extensive online resource library, including:
  - Webinars
  - Events calendar
  - TAP Blog
  - Best practices and project resources
- Facilitation of peer exchange

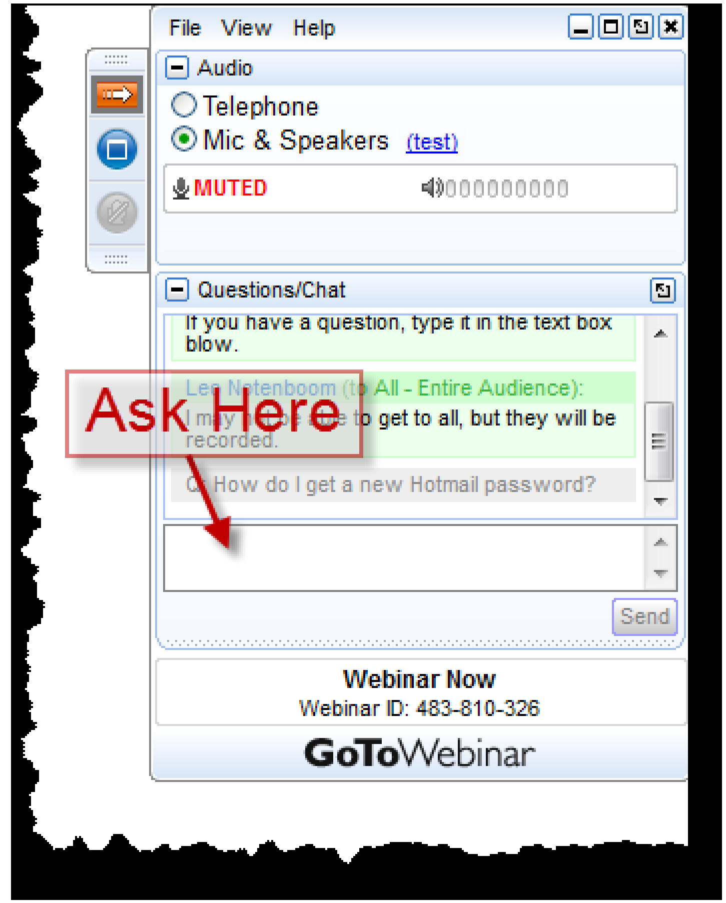
Today's Webcast

U.S. DEPARTMENT OF ENERGY | Energy Efficiency & Renewable Energy

- Welcome! This webinar is hosted by Johanna Zetterberg, US DOE
- Part of a 7-part series created for 5 states (Kentucky, Mississippi, Texas, Puerto Rico, and Alaska) with a cooperative agreement and funding under the State Energy Program with DOE.
- Under the cooperative agreement, these states are developing policy and program frameworks to support investment in cost-effective energy efficiency for the long term.
- The activities states undertake through the cooperative agreement funding are expected to build on the foundation of the National Action Plan for Energy Efficiency.
- More information is at: http://www1.eere.energy.gov/wip/energy_efficiency_action.html

Questions and Answers

- All participants will be muted to reduce background noise.
- If you have a question, please submit it through the question box.



Engaging Stakeholders in Collaborative Energy Efficiency Planning and Implementation

The Arkansas Story (So Far)

A Webinar sponsored by the U.S. Department of Energy

Wally Nixon and Eddy Moore

Commission Legal Advisors

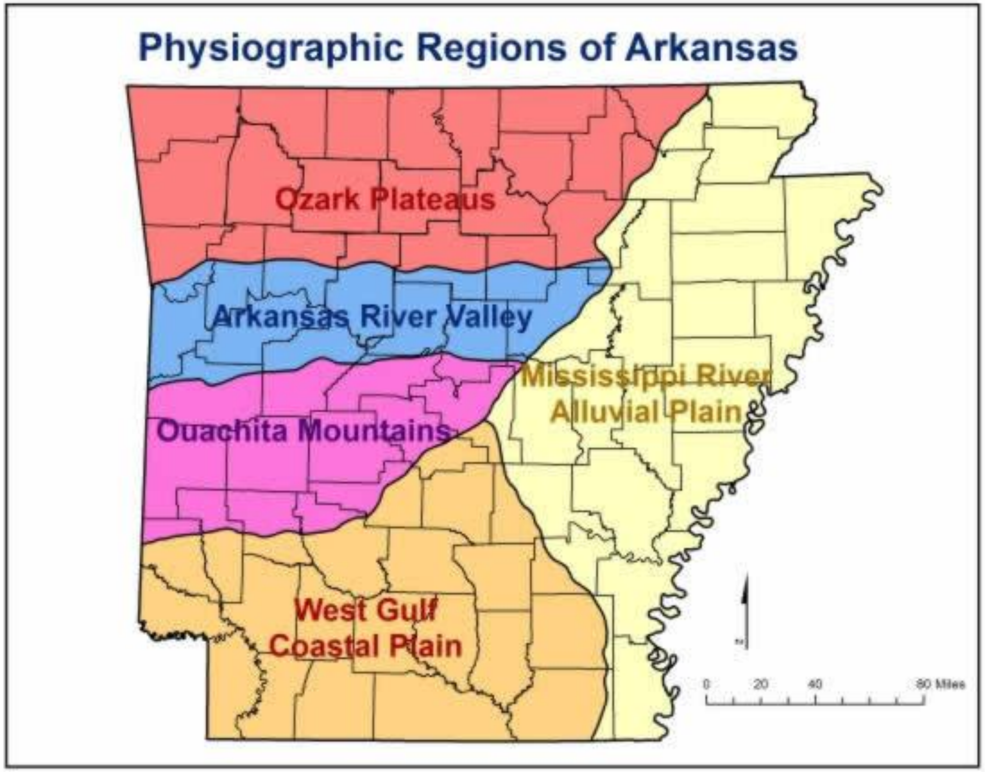
Arkansas Public Service Commission

November 22, 2011

Engaging Stakeholders in Collaborative Energy Efficiency Planning and Implementation The Arkansas Story (So Far)

- Arkansas has had significant success, but not complete success, in engaging stakeholders to participate in the development of utility EE rules and practices.
- Stakeholders have included Arkansas's 4 electric and 3 natural gas IOUs, the Commission General Staff, the Attorney General, the Arkansas Community Action Agencies Association, large commercial and industrial customers, and Audubon.
- Formal, facilitated stakeholder collaboration has been essential to the development of binding EE rules and the implementation of EE programs since 2006.
- Further informal stakeholder collaboration has helped build a common understanding among regulators and the regulated utility community of issues and terminology.
- Some active non-utility stakeholders have provided essential participation, but many potential stakeholders have had limited or no participation.

BACKGROUND:
What has happened in Arkansas?



A LONG TIME AGO,
IN A GALAXY FAR AWAY. . . ,

- The Arkansas General Assembly

– in 1977 –

enacted the *Energy Conservation Endorsement Act* (ECEA, Ark. Code Ann. § 23-3-401 et seq.).

The ECEA authorizes the PSC to require utilities to implement energy conservation programs “which cause the companies to incur costs of service and investments which conserve” electric energy and natural gas and other fuels, when it is “beneficial to … ratepayers … and to utilities themselves.”
It requires a rider to recover costs, without exactly defining what is a “cost”.

Revenge of the Energy Conservation Sith: --The Year is 2006 –

After only 29 years, Arkansas PSC Chairman Sandy Byrd decides to implement the ECEA.

The Commission launches a rulemaking on energy efficiency.

And so it begins…

- PSC, with financial assistance from US EPA, engages expert EE facilitator from Regulatory Assistance Project (RAP) to assist the PSC by facilitating a collaborative to develop basic EE rules for Commission consideration.
- EPA also provides additional funding to engage a full-time local consultant to assist the Commission and the collaborative throughout 2006.
- Utilities, industrial customers, weatherization program representatives, a few large commercial and industrial customers and PSC Staff participate.
- Collaborative meets numerous times between February and October 2006, resulting in a proposed rule compiled by RAP that the Commission accepts.
- The Rules require utilities to submit "Quick Start" EE program plans for implementation over 2007, 2008, and 2009.
- Two statewide programs—one for weatherization and one for education/training, require all parties to collaborate.
- In the distant future year of 2009, utilities will transition to "comprehensive" programs.
- Despite some rehearing petitions, ultimately no one appeals to the courts and the *Rules for Conservation and Energy Efficiency Programs* become final in December 2007.

Issues Delayed, Not Resolved and/or Punted Under Original Collaboratively-Developed Rules:

- Initial Quick Start programs don't have to prove cost effectiveness because they are so obviously copies of other cost-effective programs, but eventually, California Standard Practice Manual benefit-cost tests will kick in.
- Energy Efficiency Cost Recovery ("EECR") rider is developed and implemented to recover direct program costs, but lost revenue or EE incentive earnings issues are punted.
- Industrials want opt-out.
- The AG wants utilities to hand over program administration to an independent administrator, plus AG wants independent verification of energy savings.
- Gas companies want fuel-switching.
- Definition of "comprehensive" EE program later becomes major issue.
- AG and Audubon say we must have targets or goals of some type.

Fledgling Programs in Quick Start Phase

- Utilities' combined EE spending on Quick Start programs is basically level in 2007-2009, between $7.3-7.9 million.
- Utilities propose essentially continuing the same EE programs in 2009 as "comprehensive programs" (although overall budget rose in 2009 primarily due to a single demand response program by one utility)

ISSUES ARISE AND ARE RESOLVED IN 2009 AND 2010

- Numerous dockets are litigated to resolve various outstanding issues.
- PSC issues December 2010 orders that require IOUs to meet rising energy savings targets (0.25%, 0.50% and 0.75% for electric) over three years (2011-2013), allow utility shareholder performance incentives and recovery of lost contribution to fixed costs (“LCFC”), resolve numerous other policy and implementation issues, and set in motion other rulemakings and collaborative activities for resolution in 2011.
- Utilities’ combined spending on Quick-Start programs in 2010 program year is $16.7 million.

2011: "Return of the Collaborative"

- Utilities propose 3-year "comprehensive" plans and budgets to meet the targets (with some problems/exceptions), and PSC approves them in mid-year for immediate implementation.
- EECR Rider includes initial estimate of LCFC for the first time.
- Utilities' planned combined budgets on Comprehensive programs rise from $30 million in 2011 to $79 million in 2013.
- PSC Staff leads collaborative to develop new rules for EM&V (with the assistance of an independent EM&V expert funded by the utilities)
- PSC Staff leads collaborative on C&I Self-Directed Programs (industrial "S-D Option" or "opt-out"), resulting in Staff-proposed amendments to the C&EE Rules.
- PSC approves Rule amendments on these subjects.

Stakeholder Involvement: Role of Collaboration:

- Arkansas has relied on collaboration—particularly expert-facilitated collaboration—for the development of key EE rules.
  a. RAP facilitated the original EE rules—generally reaching consensus, with exception of large industrials.
  b. PSC in December 2010 ordered General Staff to oversee hiring of EE program evaluation ("EM&V) expert, paid for by utilities, to facilitate development of new rules and protocols to measure EE program performance. PSC adopted the rules protocols in late 2011.
  c. PSC in December 2010 also ordered General Staff to coordinate collaborative development of new rules for industrial customer participation in self-directed EE programs (and exemption from paying charges for utility-run programs). PSC adopted those rules in late 2011 and is now considering requests for certificates of exemption.
  d. PSC has relied on more informal stakeholder workgroups to address specific issues, such as workforce training and common forms for utilities to report EE results.

Informal Workshops Build Understanding

- Arkansas has found informal workshops to be a helpful further collaborative tool to build a common understanding of new topics.
    a. Throughout 2009 and 2010, the PSC hosted public workshops with presentations by experts from around the country on topics such as demand response, Smart Grid, EE potential, and renewable energy potential and integration.

Observations about Stakeholder Engagement:

- It helps if the Commission is clearly committed to do <u>something</u>, particularly if there is a deadline (e.g., develop a Rule, establish energy saving targets, flesh out the meaning of a statute).
- The right facilitators who are expert in the specific field, hopefully paid with funds not tangled in state procurement and legislative approval processes, can build significant consensus around complex issues that otherwise may languish for years without resolution. Examples include adoption of deemed savings values and use of cost-effectiveness tests.
- While their participation can be extremely helpful, it is difficult to involve stakeholders outside of the immediate regulated community.
  - Many non-profit public interest stakeholders are unfamiliar with utility regulation and lack the funding to bring in consultants.
  - However, if one or more acquires funding, the independent viewpoint can provide essential diversity to the collaborative and inform the regulatory process.
  - Arkansas has been lucky to have funded non-profit stakeholders as part of our process; these participants have been able to engage professional consultants to provide sophisticated comments and testimony.

Room for Improvement

- Numerous entities have a stake or a potential stake in utility policy (i.e., state and local government, HVAC contractors, equipment manufacturers, engineering firms, commercial property managers, builders, etc.).
- Most of these are unfamiliar with utility regulation.
- It may be difficult to get them to pay employees to devote time to the development of EE rules and procedures. Arkansas has not seen sustained participation by the wide range of entities that might have a stake in EE rules and processes.

CAVEATS

- If the Commission clearly lacks statutory authority to do something, no amount of collaboration will fix it, although collaboration might help develop a proposed statute.
- But, if stakeholders develop respectful and cooperative relationships, collaboration may lead to agreements to advance the ball on issues such as LCFC, incentives, EM&V, and the value of targets.
- Stakeholders and regulators must be alert to the possibility that one or more parties may seek to obstruct progress through litigation; therefore, the players must ground their collaborative proposals and Commission rules and orders on due process and sound legal principles.

For more information:

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- Arkansas Public Service Commission website: http://www.arkansas.gov/psc/
- *Conservation and Energy Efficiency Rules*: http://www.apscservices.info/Rules/energy_conservation_rules_06-004-R.pdf
- Commission Docket Search: http://www.apscservices.info/efilings/docket_search.asp