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January 3, 2018

MEMORANDUM

TO: Power Committee Members

FROM: Charlie Grist

SUBJECT: Discussion of draft comments on DOE proposal for revisions to the federal efficiency standards processes

BACKGROUND:

Presenter: Charlie Grist, Kevin Smit, John Shurts

Summary: The US Department of Energy (DOE) has released two requests for information (DOE RFIs), one on its federal standards process and the second on its design of the federal standards program. DOE has advanced its schedule in this matter, making it necessary to discuss the content of any proposed Council comments at the Council's January meeting instead of February as planned.

Staff is working on detailed comments this week that will be forwarded to Power Committee members by the end of the week, for discussion at the Power Committee meeting.

DOE solicited information on several areas of interest, related to the standards process. Some of the more relevant areas of interest are listed below, along with a high-level summary of the proposed comments developed so far:

- Use of Direct Final Rules (DFRs) – staff recommends continued use of DFRs under the auspices of Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC). The use of ASRAC has been a very effective method to assure effective, achievable, economic and balanced standards

- Use of Negotiated Rulemaking – Negotiated rulemaking has been very successful. Staff recommends amending the standards process to encourage, but not require, the use of negotiated rulemaking using ASRAC to conduct the negotiations
- Elimination of Advanced Notice of Proposed Rulemaking (ANOPR) – Staff recommends elimination of a mandatory ANOPR as long as other processes such as Framework and Preliminary Analysis documents, Notices of Data Availability, and RFIs are maintained
- Application of Process Rule to Commercial Equipment – Staff recommends support for amending the process rule to cover commercial equipment instead of only products. This would provide stakeholders with consistent process for participation all DOE appliance, lighting and equipment standards setting activities
- Use of Industry Standards, without modification, in DOE Test Procedures – Staff recommends that DOE not switch to the use industry testing standards without modification unless DOE finds through its rulemaking process that such standards satisfy the requirements of the Energy Policy and Conservation Act (EPCA). Staff further recommends that, to the extent practicable, DOE establish final test protocols prior to adoption of efficiency standards, but provide for the flexibility to modify test procedures to account for changes needed to align them with findings from efficiency standards rulemaking processes.
- Improvements to DOE Analysis – Staff recommends improvements to DOE analysis methods in the area of uncertainty analysis

The second RFI requests comments on the idea of shifting toward market-based mechanisms for standards. We have not yet formulated a response to this RFI. But generally, staff believes that mechanisms like fleet average efficiency and trading mechanisms among regulated products and between product classes are not practical, will be difficult to design and implement, and are not likely to be as effective as the current approach in securing cost-effective savings.

Additional comments will be forthcoming.

Relevance: Federal standards have been a key delivery mechanism for cost-effective energy savings. The scope and effectiveness of standards processes are of critical importance to Seventh Power Plan efficiency goals.

Workplan: A.1. Conservation

Background: Tom Eckman, former staff and consultant to the Council, [briefed](#) the Power Committee last month on the DOE Requests for Information. Mr. Eckman has participated in DOE's standards setting process for over a decade and was a member of DOE's advisory committee on standards ASRAC. As such he has gained a keen insight to the standards processes and functionality. Mr. Eckman provide the detailed review of the RFIs and the initial draft of responses.