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AZ CORP COMMISSION
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IN THE MATTER OF ARIZONA PUBLIC SERVICE COMPANY'S APPLICATION FOR APPROVAL OF MODIFICATIONS AND FINAL APPROVAL OF ITS NON-RESIDENTIAL DEMAND-SIDE MANAGEMENT PROGRAMS.	Docket No. E-01345A-05-0477 **SWEEP'S COMMENTS ON THE RECOMMENDED OPINION AND ORDER**

The Southwest Energy Efficiency Project (SWEEP) herein submits comments in response to the Commission's Staff Report on the Arizona Public Service (APS) Company's 13 Month Filing for Approval of Modifications and Final Approval of its Non-Residential Demand-Side Management (DSM) Programs, and the associated Recommended Opinion and Order (ROO) filed in this docket on November 12, 2008.

1. SWEEP supports the vast majority of the ROO and the Staff Report.

SWEEP supports the vast majority of the ROO and the vast majority of Staff's recommendations contained in the Staff Report. In particular, SWEEP fully supports the statement in the ROO "that it is in the public interest… to grant final approval to five of the Company's six Non-Residential DSM programs." ROO, Conclusions of Law No. 3.

As the Staff Report notes, the Non-Residential Programs received interim approval in February 2006. The DSM programs and the measures installed have been providing significant energy and peak demand savings to APS customers at a very low cost – less than one cent per kWh saved. Staff Report, p. 49.

SWEEP recommends the following clarifications and revisions of the ROO to ensure the ongoing effectiveness and cost-effectiveness of the programs as well as the accurate reporting of the costs and impacts of the programs.

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2. SWEEP recommends budget flexibility in order to reach more Non-Residential customers in a given program year or period.

Regarding Ordering Paragraph No. 2:

> 2. APS' proposal, that all Non-Residential Existing program applications received for approved DSM measures be paid an incentive with no annual budget ceiling enforced on spending for this program, is hereby denied,

SWEEP recommends that APS be allowed to exceed any DSM program budget by up to 25% without prior Commission authorization. If a Non-Residential program is achieving savings at about one cent per kWh, and non-residential customers (who fund the programs) are lined up to participate in the program, then the customers should be served by the program. The customers should not be denied service, especially not when the DSM measures are so cost-effective. The Commission should be notified whenever any DSM program is approaching actual expenditures, or a forecast of actual expenditures, that would exceed 25% of the Commission-authorized budget. At that time the Commission could take whatever action it deemed appropriate.

There are two significant problems with applying firm budget caps at 100% of authorized budgets. First, the utility, as the administrator of the program, tends to underspend the total program budget to ensure that there is no risk of it exceeding the authorized budget. No utility administrator under this constraint ever spends exactly 100% of all program budgets in a year. This cautious practice results in customers not being served even though there is funding remaining in the DSM program budget. Second, customer response to the DSM programs varies based on the situation in the market, and some programs may have strong participation while others have less-than-planned response. Allowing some programs the flexibility to exceed authorized program budgets by 25% would allow APS to shift funds from programs with lower participation to programs with higher participation, thereby serving more customers.

To address this issue, SWEEP recommends the following revisions (shown in redline/strikethrough) to Ordering Paragraph No. 2:

> 2. APS' proposal, that all Non-Residential Existing program applications received for approved DSM measures be paid an incentive with no annual budget ceiling enforced on spending for this program, is hereby denied~~,~~; however, APS may exceed any DSM program budget by up to 25% without prior Commission authorization, and APS shall notify the Commission whenever any DSM program is approaching actual expenditures, or a forecast of actual expenditures, that would exceed 25% of the Commission-authorized budget,

3. SWEEP recommends that the custom efficiency financial incentive be retained at $0.11 per annual kWh saved, and that APS, with the assistance of the DSM Collaborative, be required to conduct an analysis of custom incentives and file a report with the Commission by April 1, 2009.

Regarding Ordering Paragraph No. 12:

> 12. the custom-efficiency incentive of $0.11 per annual kWh saved shall be reduced to $0.105 per annual kWh saved on July 1, 2009, and shall be further reduced to $0.10 per annual kWh saved on January 1, 2011, such reduction to be applied in all APS DSM programs to which the custom-efficiency incentive applies,

SWEEP believes it is best to revise incentive levels, including custom incentives, based on a complete understanding of the current market. SWEEP also respectfully submits that it may be premature to reduce the custom incentive, and that doing so may result in many custom energy efficiency opportunities being lost or foregone, which would result in higher total energy costs for customers.

SWEEP concurs with Staff that it is time to reexamine the custom incentive. SWEEP suggests that such an examination should be based on an understanding of the current market, including the effects of the current economic situation, and should be informed by analysis of recent custom efficiency projects and those being developed.

Therefore, SWEEP recommends that APS, with the assistance of the DSM Collaborative (in which Staff participates), conduct an analysis of custom incentives and options for revisions to the custom incentives. APS should complete the report and file it with the Commission by April 1, 2009. Doing so will allow adequate time prior to July 1, 2009 for the Commission to consider any revisions to the level and/or design of the custom incentives.

The analysis should review custom incentives in other states, including incentive levels, incentive structures and designs. The analysis should also consider whether any custom measures would be better served by prescriptive incentives, which are easier to target and focus.

SWEEP recommends the following replacement for Ordering Paragraph No. 12:

> 12. APS, with the assistance of the DSM Collaborative, shall conduct an analysis of custom incentives and file a report with the Commission by April 1, 2009.

4. SWEEP recommends that the availability of tax credits or rebates from other sources be monitored and considered by APS, up front, when determining the DSM program incentive levels for customer sectors or segments. However, APS should not be required to apply a customer-specific financial and tax analysis for each and every customer, which would be very time consuming, invade customers' privacy, and be very expensive to implement.

Regarding Ordering Paragraph No. 14:

> 14. APS shall continually research and monitor other energy-efficiency rebates and incentives, including tax credits, that may be available to its Non-Residential DSM program participants throughout its service territory; and that the Company shall limit its incentive payments to program participants to ensure that the sum of all known monetary incentives, either paid or available to APS program participants from other entities for the same measure, is limited to APS' established measure cap, such as 50 percent or 75 percent of incremental cost, unless a different cap is ordered by the Commission,

SWEEP believes that in determining the level of a customer incentive in a given program for a given year, APS should consider all of the market characteristics, including any available tax credits or rebates from other sources, which customers are eligible for the tax credits or rebates, the limitations on the tax credits or rebates including limited or capped funding, and any barriers to the implementation or customers' use of the tax credits or rebates. APS should develop and propose the appropriate level of customer incentive for the targeted customer sector or segment with this information in mind. The level of customer incentive should be set in this manner, as a regular practice, up front.

Once set, the incentive should be available to all eligible customers in that sector or segment.[1]

In this manner, APS should monitor the markets and consider the availability of tax credits or rebates from other sources in planning for DSM financial incentives for customers. However, APS should not be required to apply a customer-specific analysis for each and every customer, which would be very time consuming, invade customers' privacy, and be very expensive to implement. APS should not be required to determine which specific individual customers are eligible for a specific tax credit or rebate from other sources, APS should not be required to police which individual customers may actually apply or receive such tax credits or rebates, and APS should not be required to adjust incentive levels based on the actions or inactions of individual customers.[2]

APS should monitor the market to make sure it is aware of any tax credits or rebates from other sources, and the availability of new tax credits or rebates may result in mid-year proposals to revise incentive levels.

To address this issue, SWEEP recommends the following revisions (shown in redline/strikethrough) to Ordering Paragraph No. 14:

> 14. APS shall continually research and monitor other energy-efficiency rebates and incentives, including tax credits, that may be available to its Non-Residential DSM program participants throughout its service territory; and that the Company shall fully consider such information when developing and setting the level of customer incentive for the targeted customer sector or segment, ~~limit its incentive payments to program participants to ensure that the sum of all known monetary incentives, either paid or available to APS program participants from other entities for the same measure, is limited to APS' established measure cap, such as 50 percent or 75 percent of incremental cost, unless a different cap is ordered by the Commission,~~

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[1] Even within a program, DSM incentive levels may vary based on customer eligibility for a tax credit. For example, in some states a higher incentive is available for municipalities and schools, because they are not eligible for certain tax credits.

[2] Note that some tax credits or tax incentives, particularly for business and industry, require extensive bookkeeping and paperwork, and therefore some customers forego the tax credits.

5. SWEEP recommends a clarification of the DSM reporting requirements.

Regarding Ordering Paragraph No. 19, SWEEP recommends the following revisions (shown in redline/strikethrough) to clarify the Paragraph:[3]

> 19. in its DSM Semi-Annual Progress Reports, APS shall continue to report its MWh savings resulting from DSM measures installed during the reporting period in terms of "lifetime" MWh savings over the expected life of the measures; and additionally, it shall report <u>first year annual</u> MWh savings <u>from DSM measures installed during</u> ~~for~~ the six-month reporting period; and it shall report both lifetime and <u>annual</u> ~~reporting period~~ MWh savings by program not only for the period, but year-to-date and DSM program-to-date,

SWEEP believes that Staff's intent, which SWEEP fully supports, is to ensure that APS report both lifetime MWh and annual MWh savings (first year annual savings) for measures installed during the reporting period. SWEEP respectfully suggests that the revisions proposed above will clarify that "annual savings" should be reported in addition to lifetime savings, and will help to avoid any potential confusion regarding the meaning of "reporting period savings."

Thank you for the opportunity to submit these comments on the Recommended Opinion and Order and the Staff Report.

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[3] The Commission should consider similar wording changes for Ordering Paragraph No. 21 as well, which also deals with reporting of annual and lifetime savings (environmental savings in Paragraph 21).