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9 **BEFORE THE ARIZONA CORPORATION COMMISSION**

10 MIKE GLEASON, CHARIMAN  
11 WILLIAM A. MUNDELL  
12 JEFF HATCH-MILLER  
13 KRISTIN K. MAYES  
14 GARY PIERCE

15 IN THE MATTER OF THE APPLICATION  
16 OF THE ARIZONA PUBLIC SERVICE  
17 COMPANY FOR APPROVAL OF ITS  
18 DEMAND-SIDE MANAGEMENT  
19 PROGRAM PORTFOLIO PLAN UPDATE  
20 2008-2010

Docket No. E-01345A-07-0712

**SWEEP'S COMMENTS  
REGARDING RECOMMENDED  
OPINION AND ORDER**

21 Southwest Energy Efficiency Project ("SWEEP") submits the attached comments  
22 regarding the Recommended Opinion and Order in this matter.

23 RESPECTFULLY SUBMITTED this 12<sup>th</sup> day of December, 2008.

24 ARIZONA CENTER FOR LAW IN  
25 THE PUBLIC INTEREST

Arizona Corporation Commission  
**DOCKETED**

DEC 12 2008

DOCKETED BY

By   
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1 ORIGINAL and 13 COPIES of  
2 the foregoing filed this 12<sup>th</sup> day  
3 of December, 2008, with:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 W. Washington  
6 Phoenix, AZ 85007

6 COPIES of the foregoing  
7 electronically transmitted  
8 this 12<sup>th</sup> day of December, 2008  
9 to:

9 All Parties of Record

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**  
2  
3

4 MIKE GLEASON, Chairman  
5 WILLIAM A. MUNDELL  
6 JEFF HATCH-MILLER  
7 KRISTIN K. MAYES  
8 GARY PIERCE  
9

10 IN THE MATTER OF THE APPLICATION  
OF THE ARIZONA PUBLIC SERVICE  
COMPANY FOR APPROVAL OF ITS  
DEMAND-SIDE MANAGEMENT  
PROGRAM PORTFOLIO PLAN UPDATE  
2008-2010

Docket No. E-01345A-07-0712

**SWEEP'S COMMENTS ON THE  
RECOMMENDED OPINION  
AND ORDER**

11  
12  
13 The Southwest Energy Efficiency Project (SWEEP) appreciates the opportunity to  
14 submit its comments in response to the Commission's Staff Report on the Arizona Public  
15 Service (APS) Company's Application for Approval of its Demand-Side Management  
16 (DSM) Program Portfolio Plan Update for 2008-2010 (Plan Update), and the associated  
17 Recommended Opinion and Order (ROO) filed in this docket on December 2, 2008.  
18

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

20 SWEEP supports the vast majority of the ROO and the vast majority of Staff's  
21 recommendations contained in the Staff Report. In particular, SWEEP fully supports  
22 Commission approval of the 2008-2010 Portfolio Plan Update, as modified by the  
23 recommendations in the Staff Report, and SWEEP supports Staff's recommendation that  
24 Commission approval is in the public interest. ROO, Conclusions of Law No. 3.

25 As the Staff Report notes, the 2008-2010 DSM programs will provide over  
26 6,814,000 MWh in energy savings over the lives of the measures, 110 MW of peak  
27 demand reductions, and significant environmental benefits, as well as \$187 million in net  
28 economic benefits (benefits exceeding costs) for customers. Staff Report, p. 6.

29 SWEEP recommends the following revisions of the ROO to ensure the ongoing  
30 effectiveness and cost-effectiveness of the DSM programs, and to increase the savings  
31 and benefits APS customers receive as a result of the programs.

1 **2. SWEEP recommends the target for average annual energy savings in 2008-2010**  
2 **be increased to a level that is at least 25% higher than reported annual energy**  
3 **savings in 2007. The APS-proposed annual energy savings in the 2008-2010**  
4 **DSM Portfolio Plan Update are lower than the reported annual energy savings**  
5 **achieved in 2007.**

6  
7 The chart in SWEEP Exhibit A shows the reported annual energy savings, by  
8 year, for the 2005-2007 period, and the planned annual energy savings, by year, for the  
9 2008-2010 period set forth in the DSM Portfolio Plan Update.<sup>1</sup> Annual energy savings  
10 increased by 331% between 2005 and 2006, and by 151% between 2006 and 2007.

11 These increased savings provide the significant cost savings and net economic benefits  
12 for customers, plus they provide the environmental benefits. APS is to be congratulated  
13 for ramping up the DSM programs to achieve these savings.

14 However, SWEEP is concerned that the proposed annual energy savings for 2008  
15 are a 23% *decrease* compared to 2007 reported results (201,475 MWh in 2008 vs.  
16 260,105 MWh in 2007). Proposed annual energy savings increase slightly in the  
17 following two years (by 9% from 2008 to 2009, and by 7% from 2009 to 2010) – but  
18 from the starting point of the 23% lower proposed annual energy savings in 2008.

19 The average annual energy savings for the 2008-2010 period (219,151 MWh) are  
20 15.7% lower than the reported annual energy savings for 2007. Yet the average annual  
21 budgets for 2008-2010 are 31.5% higher than the actual expenditures in 2007.<sup>2</sup>

22 SWEEP recommends that the Commission increase the annual energy savings  
23 targets for 2008-2010, with commensurate adjustments to the proposed MW savings,  
24 environmental benefits, economic benefits, and net benefits. Specifically, SWEEP  
25 recommends that the target for average annual energy savings for the 2008-2010 period  
26 be increased to a level that is at least 25% higher than the reported annual savings in

---

<sup>1</sup> Annual energy savings and expenditures data are from the APS DSM Semi-Annual Reports, APS corrections to those reports, the 2008-2010 DSM Portfolio Plan Update, and the APS response to data request WRA 1.1 in the APS Rate Case (08-0172).

<sup>2</sup> The budget increase to \$25.5 million annually is due to the \$6 million per year of “make-up” funding added to 2008-2010 as a result of the under-spending of the \$48 million spending obligation in 2005-2007 approved in Decision No. 67744 (APS Rate Case Settlement Agreement). Staff Report, p. 5.

1 2007, from 219,151 MWh proposed by APS in the Portfolio Plan Update to at least  
2 325,000 MWh. Table 1 summarizes SWEEP's recommendation and compares the  
3 recommended annual savings level to reported and APS-proposed savings levels.

4

<b>Table 1: Average Annual Energy Savings from APS DSM Programs</b>				
	Reported Energy Savings in 2007	APS Proposed Savings for 2008	Average Annual Energy Savings in 2008-2010	
			APS Proposed	SWEEP Recommended
Average Annual Energy Savings (MWh)	260,105	201,475	219,151	325,000
Annual Energy Savings as a % of Retail Electricity Sales	0.89%	0.70%	0.75%	1.1%

5  
6 As shown in Table 1, achieving the higher energy savings that SWEEP  
7 recommends would result in annual energy savings equivalent to about 1.1% of retail  
8 electricity sales. Achieving annual energy savings greater than 1% of retail energy sales  
9 is an important milestone recognized nationally, which would demonstrate Arizona's  
10 commitment to increasing energy efficiency to benefit consumers and businesses.

11 The 25% increase above the reported annual energy savings in 2007 is a very  
12 reasonable incremental increase for 2008-2010, especially when compared to the  
13 historical growth rate in annual energy savings (over 200% annually on average in 2005-  
14 2007) as the programs have ramped up. The strong performance of the DSM programs in  
15 2007, together with the increased customer interest in the programs, demonstrates that  
16 these higher levels of cost-effective savings can be achieved.

17 The increased customer energy savings can be achieved through increased  
18 customer participation in several programs, most notably in the Large Existing Facilities  
19 and Small Business Non-Residential programs, the Schools program, and the Non-  
20 Residential New Construction program. Customer participation and energy savings in  
21 these non-residential programs have both been growing, and this growth should continue  
22 in 2008-2010. For residential customers, additional savings can be achieved in all of the

1 residential programs, particularly in the Consumer Products, Existing Home HVAC,<sup>3</sup> and  
2 Low Income programs. In a comment below, SWEEP recommends additional program  
3 elements for the Residential New Construction and Existing Home HVAC programs that  
4 would also result in increased savings for residential customers.

5 To implement the increased energy savings target for 2008-2010, APS should  
6 submit a compliance filing within 30 days. The compliance filing should consist of one  
7 or more tables documenting the increased yearly and three-year values for annual energy  
8 savings, as well as the commensurate adjustments to yearly and three-year values for the  
9 DSM budgets, lifetime energy savings, MW peak demand reductions, emission  
10 reductions and environmental benefits, economic benefits, and net benefits.

11 SWEEP recommends the following ordering paragraph:

12 The target for average annual energy savings from DSM programs in 2008-2010  
13 shall be increased to 325,000 MWh, which is 25% higher than the reported annual energy  
14 savings in 2007. Within 30 days, APS shall submit a compliance filing consisting of one  
15 or more tables documenting the increased yearly and three-year values for annual energy  
16 savings, as well as the commensurate adjustments to yearly and three-year values for the  
17 DSM budgets, lifetime energy savings, MW peak demand reductions, emission  
18 reductions and environmental benefits, economic benefits, and net benefits.

19  
20 SWEEP plans to file recommendations on DSM programs and savings in the APS  
21 Rate Case, including a proposed Energy Efficiency Standard (EES) to set savings goals  
22 for DSM programs in future years. If adopted by the Commission, in the APS Rate Case  
23 or in a parallel generic docket, the Energy Efficiency Standard and the requirements set  
24 forth in the EES should determine the DSM savings goals for future years, including for  
25 2010 (i.e., the EES goals would replace the 2010 savings targets adopted in this docket).  
26 However, it is essential that higher savings targets be set in this proceeding for 2008-  
27 2010 to increase the savings and benefits customers receive in the interim, and to  
28 continue the ramp up of cost-effective DSM programs in the APS service territory.

---

<sup>3</sup> APS and Staff are working on modifying the Existing Home HVAC program to ensure the program's cost-effectiveness. SWEEP recommends that such modifications be developed and implemented as soon as possible, and certainly far in advance of the 2009 cooling season.

1 **3. The \$6 million per year of “make-up” funding added to 2008-2010 DSM annual**  
2 **budgets as a result of the under-spending of the \$48 million spending obligation**  
3 **in 2005-2007 should be made available to serve increased customer participation**  
4 **in the DSM programs, whenever such increased customer participation occurs.**  
5 **APS should be required to spend the “make-up” funding to serve the needs of**  
6 **customers and to meet increasing customer demand for the DSM programs.**  
7 **APS should not be limited to spending the “make-up” funding evenly in each**  
8 **program year in 2008, 2009, and 2010.**  
9

10 As documented in the Staff Report, \$6 million per year of “make-up” funding was  
11 added to the 2008-2010 DSM annual budgets in the Portfolio Plan Update as a result of  
12 the under-spending of the \$48 million spending obligation in 2005-2007 approved in  
13 Decision No. 67744 (APS Rate Case Settlement Agreement). Staff Report, p. 5. While  
14 SWEEP has not complained about the under-spending of the \$48 million spending  
15 obligation in 2005-2007, considering the later-than-expected approval and  
16 implementation of the DSM programs, SWEEP asserts that the Commission-approved  
17 obligation should be met in a timely manner, to benefit APS customers and to meet the  
18 requirements of the Settlement Agreement.

19 APS should be required to spend the “make-up” funding to serve the needs of  
20 customers and to meet increasing customer demand for the DSM programs, whenever  
21 such increased customer participation in the programs occurs. For example, if strong  
22 customer interest and participation in the 2009 DSM programs puts pressure on the 2009  
23 annual program budgets, APS should spend, in 2009, all or a portion of the \$6 million  
24 initially allocated to 2010 in the Portfolio Plan Update budget, to better serve the  
25 customers who want to participate in the programs in 2009.

26 While it was reasonable, for planning purposes, for APS to budget the “make-up”  
27 under-spending amount evenly across the three years in the 2008-2010 Portfolio Plan  
28 Update, the actual expenditure of the “make-up” funding should be based on meeting  
29 customer needs and the increased customer participation in the programs, whenever these  
30 occur.

1 SWEEP recommends the following ordering paragraph:

2 APS shall spend the \$6 million per year of “make-up” DSM program funding,  
3 resulting from the under-spending of the \$48 million spending obligation in 2005-2007  
4 per Decision No. 67744, to serve the needs of customers and to meet increasing customer  
5 demand for the DSM programs, whenever such increased customer participation in the  
6 programs occurs. APS shall not be limited to spending the “make-up” funding evenly in  
7 each program year in 2008, 2009, and 2010.

8

9 **4. Several DSM program enhancements are needed at this time, to update the**  
10 **programs, to capture additional savings from new measures and opportunities,**  
11 **and to reach more customers. SWEEP recommends that several program**  
12 **enhancements be added as *program elements* within the Commission-approved**  
13 **DSM programs, in this proceeding.**

14

15 It is important to review and refresh DSM programs on a regular basis, to update  
16 the programs and program offerings, to capture additional savings from new measures  
17 and opportunities, and to reach more customers. For example, there are opportunities to  
18 achieve higher savings per home in the Residential New Construction program by  
19 offering a second tier or level of energy efficiency within the existing program for high  
20 performance/very energy efficient homes, which, when combined with one or more  
21 renewable energy systems, can result in zero-net energy homes. This is important for two  
22 reasons. First, there are builders, developers, and homebuyers who are considering zero-  
23 net energy and high performance homes, and the DSM programs should encourage these  
24 homes to provide more savings and net benefits. Second, the recent national agreement  
25 for the 2009 IECC building energy code to be about 15% more energy efficient than the  
26 2006 IECC means that new homes currently considered to be energy efficient, including  
27 Energy Star homes (15% more energy efficient than the 2006 IECC), will simply be  
28 equivalent to the base building energy code once the 2009 IECC is adopted by local  
29 municipalities in Arizona. It is essential to plan ahead and develop the performance level  
30 for future energy efficient homes now, as a high performance second tier within the DSM  
31 program. Then the high performance second tier of today’s DSM program will become  
32 the first energy efficiency tier in the program in the near future.

1           Likewise, a second tier for high performance commercial buildings should be  
2 developed and offered in the Non-Residential New Construction program, to address  
3 national and regional initiatives for more energy efficient and green buildings, such as  
4 Architecture 2030, the New Buildings Institute Advanced Buildings, and higher levels of  
5 LEED.

6           The most opportune time for builders, developers, and designers to consider  
7 significant changes and upgrades to their building designs and production systems is  
8 when the housing and construction industry is depressed. Now is the time to work with  
9 the building industry to develop the high performance buildings of the future.<sup>4</sup> The  
10 second tier, high performance program elements should be developed, approved by the  
11 Commission, and implemented prior to May 1, 2009, so that high performance and zero-  
12 net energy building projects can be developed during 2009.<sup>5</sup>

13           SWEEP recommends the following program enhancements be added as *program*  
14 *elements* (not new programs) within the existing Commission-approved DSM programs  
15 at this time. SWEEP recommends the following ordering paragraphs to implement the  
16 program enhancements and program elements:

17           High Performance and Zero-Net Energy Homes

18           APS shall build on its current residential energy efficiency programs and prepare  
19 a proposed second tier, high performance home program element within the Residential  
20 New Construction program plus a report addressing the requirements for DSM program  
21 support of zero-net energy homes. APS shall file the proposed program element and  
22 report in Docket Control by February 1, 2009. In the report APS shall outline what zero-  
23 net energy technologies and incentives exist or are in development and how these  
24 technologies and incentives can be incorporated into the Company's existing DSM,  
25 Renewable, and AMI programs. Staff shall review the proposed program element and  
26 report, and shall make recommendations to the Commission regarding the adoption of the  
27 proposed high performance home program element and DSM program support for zero-  
28 net energy homes in the APS service territory by March 10, 2009.

29

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<sup>4</sup> SWEEP first recommended DSM program support for zero-net energy homes to the Commission on April 4, 2006 in Docket No. E-01345A-05-0477 (the APS DSM program docket), during Commission review of the APS residential DSM programs.

<sup>5</sup> APS and SWEEP have been discussing and developing a second tier, high performance home program element for several months. Therefore, APS should be able to file a proposal and report very soon.

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1           High Performance and Zero-Net Energy Commercial Buildings

2           APS shall build on its current non-residential energy efficiency programs<sup>6</sup> and  
3 prepare a proposed second tier, high performance commercial building program element  
4 within the Non-Residential New Construction program plus a report addressing the  
5 requirements for DSM program support of zero-net energy commercial buildings. APS  
6 shall file the proposed program element and report in Docket Control by February 1,  
7 2009. In the report APS shall outline what zero-net energy technologies and incentives  
8 exist or are in development for commercial buildings and how these technologies and  
9 incentives can be incorporated into the Company's existing DSM, Renewable, and AMI  
10 programs. Staff shall review the proposed program element and report, and shall make  
11 recommendations to the Commission regarding the adoption of the proposed high  
12 performance commercial building program element and DSM program support for zero-  
13 net energy commercial buildings in the APS service territory by March 10, 2009.

14

15           Home Performance Program Element for the Existing Home HVAC Program

16           APS shall build on its current residential energy efficiency programs and prepare  
17 a proposed Home Performance program element within the residential Existing Home  
18 HVAC program focused on capturing building shell, air sealing, duct sealing, and other  
19 opportunities for energy savings in existing homes, in addition to the savings from  
20 HVAC systems. APS shall file the proposed program element in Docket Control by  
21 March 1, 2009. Staff shall review the proposed program element, and shall make  
22 recommendations to the Commission regarding the adoption of the proposed home  
23 performance program element by April 10, 2009.

24

25           Additional Funding and Program Enhancements for the Low Income Program

26           APS shall review its current low income program, review the effectiveness of the  
27 program and program elements, review the capability of the program and its partners to  
28 reach additional low income customers, and propose a budget increase and program  
29 enhancements identified during the review. The DSM Collaborative members, including  
30 Staff, as well as the low income and community action agencies, shall participate in the  
31 review of the low income program. APS shall file a report on the results of the review,  
32 including the proposed budget increase and any program enhancements, in Docket  
33 Control by March 1, 2009. Staff shall review the report, the proposed budget increase,  
34 and any proposed program enhancements, and shall make recommendations to the  
35 Commission by April 10, 2009.

36

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<sup>6</sup> APS, Staff, SWEEP, and other DSM Collaborative members will be reviewing and analyzing custom incentives for the non-residential DSM programs in a parallel process in early 2009, which will help to update the other non-residential programs.

1 **5. SWEEP recommends DSM program spending flexibility to allow APS spending**  
2 **in a given DSM program in a given year to vary across the three years of a DSM**  
3 **Program Portfolio Plan, so long as the total spending in that program over the**  
4 **three-year Portfolio Plan period does not exceed the three-year budget for that**  
5 **program by more than 15%.<sup>7</sup>**

6 Because of variations in market conditions and customer response to programs,  
7 customer participation in a given program (and therefore program expenditures) may  
8 vary significantly across program years. For example, in a year in which the new  
9 construction markets are booming, the new construction program spending is very likely  
10 to exceed the program budget. Conversely, when the new construction markets are flat or  
11 depressed, program spending is likely to be less than the program budget. The lag time  
12 between developing a new construction energy efficiency project and implementing the  
13 project in a newly-constructed building can be significant (sometimes years), therefore  
14 there often is a lag in the effect of boom or bust markets on program spending.

15 SWEEP believes that it is understandable for yearly spending in a given program  
16 to vary, therefore it is reasonable to allow some spending flexibility within a program  
17 across several program years. To address this situation, SWEEP recommends the  
18 following ordering paragraph:

19 APS spending in any DSM program may exceed the annual budget for that  
20 program by up to 50% in any year, so long as total three-year APS program spending  
21 does not exceed the three-year Program Portfolio Plan budget for that program by more  
22 than 15%. Any unexpended funds for a given program in a given year shall be carried  
23 forward to the budget for that program in the subsequent year, so long as total yearly  
24 DSM portfolio spending is greater than the \$10 million of DSM funding in base rates.  
25

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<sup>7</sup> SWEEP suggests the 15% value in order to be consistent with Commission Decision No. 70637 in the APS DSM program docket addressing the 13 Month DSM Filing, adopted by the Commission on December 3, 2008.

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

