

ORIGINAL



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MEMORANDUM

TO: Docket Control

FROM: Steve M. Olea  
Director  
Utilities Division 

DATE: October 30, 2009

RE: DRAFT PROPOSED ELECTRIC ENERGY EFFICIENCY RULES FOR THE PROPOSED RULEMAKING ON ELECTRIC ENERGY EFFICIENCY RULES (DOCKET NO. RE-00000C-09-0427)

On October 29, 2009 (yesterday), Staff docketed a draft of proposed Electric Energy Efficiency Rules; unfortunately that October 29<sup>th</sup> draft was incorrect. Therefore, please disregard the draft rules docketed on October 29, 2009. With this filing, Staff is docketing the correct set of draft Electric Energy Efficiency Rules.

Staff encourages all interested parties to provide written comments on these newly docketed draft proposed rules. Please file an original and 13 copies of your comments with the Commission's Docket Control Center, 1200 West Washington Street, Phoenix, Arizona 85007, on or before November 13, 2009. The docket number has not changed, therefore, please continue to reference Docket No. RE-00000C-09-0427 on all comments.

Parties who wish to be added to the service list in this docket should send notice of their interest including a mailing address and an e-mail address to Docket Control. Staff welcomes and appreciates the input of all interested parties in the development of these rules. Staff also apologizes for any confusion that the October 29<sup>th</sup> filing may have caused. If you have any questions regarding the process or are confused by this memorandum, please contact Terri Ford or Barbara Keene at 602-542-4251.

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Originator: Barbara Keene

Arizona Corporation Commission  
**DOCKETED**  
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**Draft Proposed Electric Energy Efficiency Rules**

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND  
ASSOCIATIONS; SECURITIES REGULATION  
CHAPTER 2. CORPORATION COMMISSION  
FIXED UTILITIES**

**ARTICLE 24. ELECTRIC ENERGY EFFICIENCY STANDARDS**

R14-2-2401. Definitions

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### R14-2-2401. Definitions

In this Article, unless otherwise specified:

1. “Adjustment mechanism” means a Commission-approved provision in an affected utility’s rate schedule allowing the affected utility to increase and decrease a certain rate or rates, in an established manner, when increases and decreases in specific costs are incurred by the affected utility.
2. “Affected utility” means a public service corporation that provides electric service to retail customers in Arizona.
3. “Baseline” means the level of electricity demand, electricity consumption, and associated expenses estimated to occur in the absence of a specific DSM program or DSM measure, determined as provided in R14-2-2413.
4. “CHP” means combined heat and power, which is using a primary energy source to simultaneously produce electrical energy and useful process heat.
5. “Commission” means the Arizona Corporation Commission.
6. “Cost-effective” means that total incremental benefits from a DSM measure or DSM program exceed total incremental costs over the life of the DSM measure, as determined under R14-2-2412.
7. “Customer” means the person or entity in whose name service is rendered to a single contiguous field, location, or facility, regardless of the number of meters at the field, location, or facility.
8. “Delivery system” means the infrastructure through which an affected utility transmits and then distributes electrical energy to its customers.
9. “Demand savings” means the load reduction, measured in kW, occurring during a relevant peak period or periods as a direct result of energy efficiency and demand response programs.
10. “Demand response” means modification of customers’ electricity consumption patterns, affecting the timing or quantity of customer demand and usage, achieved through intentional actions taken by an affected utility or customer because of changes in prices, market conditions, or threats to system reliability.
11. “Distributed generation” means the production of electricity on the customer’s side of the meter, for use by the customer, through a process such as CHP.

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12. “DSM” means demand-side management, the implementation and maintenance of one or more DSM programs or DSM measures.
13. “DSM measure” means any material, device, technology, educational program, pricing option, practice, or facility alteration designed to result in reduced peak demand, increased energy efficiency, or shifting of electricity consumption to off-peak periods and includes CHP used to displace space heating, water heating, or another load.
14. “DSM program” means one or more DSM measures provided as part of a single offering to customers.
15. “DSM tariff” means a Commission-approved schedule of rates designed to recover an affected utility’s reasonable and prudent costs of complying with this Article.
16. “Electric utility” means a public service corporation providing electric service to the public.
17. “Energy efficiency” means the production or delivery of an equivalent level and quality of end-use electric service using less energy.
18. “Energy efficiency standard” means the cumulative reduction from 2005 retail energy sales, in percentage of kWh, required to be achieved each year through an affected utility’s approved DSM measures and DSM programs, as prescribed in R14-2-2404.
19. “Energy savings” means the reduction in a customer’s energy consumption directly resulting from a DSM measure or a DSM program, expressed in kWh.
20. “Energy service company” means a company that provides a broad range of services related to energy efficiency, including energy audits, the design and implementation of energy efficiency projects, and the installation and maintenance of energy efficiency measures.
21. “Environmental benefits” means avoidance of costs for things such as, but not limited to, water use and water contamination; monitoring storage and disposal of coal ash (bottom and fly); health effects from burning fossil fuels; and emissions from transportation and production of fuels.
22. “Incremental benefits” means amounts saved through avoiding costs for fuel, purchased power, new capacity, transmission, distribution, and other cost items necessary to provide electric utility service, along with other improvements in societal welfare, such as

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- through avoided environmental impacts, including, but not limited to, water consumption savings, air emission reduction, reduction in coal ash, and reduction of nuclear waste.
23. “Incremental costs” means the additional expenses of DSM programs and DSM measures, relative to baseline.
24. “Independent program administrator” means an impartial third party employed to provide objective oversight of energy efficiency programs and measures.
25. “kW” means kilowatt.
26. “kWh” means kilowatt-hour.
27. “Leveraging” means combining resources to more effectively achieve an energy efficiency goal, or to achieve greater energy efficiency savings, than would be achieved without combining resources.
28. “Load management” means actions taken or sponsored by an affected utility to reduce peak demands or improve system operating efficiency, such as direct control of customer demands through affected-utility-initiated interruption or cycling, thermal storage, or educational campaigns to encourage customers to shift loads.
29. “Low income customer” means a customer with a below average level of household income, as defined in an affected utility’s Commission-approved DSM program description.
30. “Market transformation” means strategic efforts to induce lasting structural or behavioral changes in the market that result in increased energy efficiency.
31. “Net benefits” means the incremental benefits resulting from DSM minus the incremental costs of DSM.
32. “Non-market benefits” means improvements in societal welfare that are not bought or sold.
33. “Program costs” means the expenses incurred by an affected utility as a result of developing, marketing, implementing, administering, and evaluating Commission-approved DSM measures and DSM programs.
34. “Self-direction” means an option made available to qualifying customers of sufficient size, in which the amount of money paid by each qualifying customer towards DSM costs is tracked for the customer and made available for use by the customer for approved DSM investments upon application by the customer.

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35. “Societal Test” means a cost-effectiveness test of the net benefits of DSM measures and programs that starts with the Total Resource Cost Test, but including non-market benefits to society, and excluding carrying costs as part of the avoided capacity cost.
36. “Staff” means individuals working for the Commission’s Utilities Division, whether as employees or through contract.
37. “Total Resource Cost Test” means a cost-effectiveness test that measures the net benefits of a DSM program as a resource option, including incremental measure costs, incremental affected utility costs, and carrying costs as a component of avoided capacity cost, but excluding incentives paid by affected utilities and non-market benefits to society.

### **R14-2-2402. Applicability**

This Article applies to each affected utility classified as Class A according to A.A.C. R14-2-103(A)(3)(q).

### **R14-2-2403. Goals and Objectives**

- A.** An affected utility shall design each DSM measure or DSM program:
1. To be cost-effective; and
  2. To accomplish at least one of the following:
    - a. Energy efficiency;
    - b. Load management; or
    - c. Demand response.
- B.** An affected utility shall consider the following when planning and implementing a DSM measure or DSM program:
1. Whether the DSM measure or DSM program will achieve cost-effective energy savings and peak demand reductions;
  2. Whether the DSM measure or DSM program will advance market transformation and achieve sustainable savings, reducing the need for future market interventions; and
  3. Whether the affected utility can ensure a level of funding adequate to sustain the DSM measure or DSM program and allow the DSM measure or DSM program to achieve its targeted goal.
- C.** An affected utility shall:

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1. Offer DSM measures or DSM programs that will provide an opportunity for all affected utility customer segments to participate; and
2. Allocate a portion of DSM resources specifically to low-income customers.

### **R14-2-2404. Energy Efficiency Standards**

- A.** By December 31, 2020, an affected utility shall, through DSM measures and DSM programs, reduce its retail electric energy sales, measured in kWh, to a point 22% below the affected utility's retail electric energy sales for the year 2005.
- B.** An affected utility's reductions in sales resulting from DSM measures or DSM programs implemented before the effective date of these rules, but after 2004, may be counted toward meeting the energy efficiency standard, up to 3 percentage points of the 22% reduction.
- C.** An affected utility's reductions in sales resulting from demand response and load management may comprise up to 2 percentage points of the 22% reduction, with peak load reduction capability from demand response converted to an annual energy equivalent based on an assumed 50% annual load factor.
- D.** An affected utility's energy savings resulting from efficiency improvements to its delivery system may not be counted toward meeting the standard.
- E.** An affected utility may count a customer's energy savings resulting from self-direction toward meeting the standard.
- F.** An affected utility's energy savings used to meet the energy efficiency standard will be assumed to continue through the year 2020 or, if expiring before the year 2020, to be replaced with a DSM program or DSM measure having at least the same level of efficiency.
- G.** An affected utility shall meet at least the following energy efficiency standard by the end of each year:

<u>CALENDAR YEAR</u>	<u>ENERGY EFFICIENCY STANDARD</u> <u>(Cumulative Reduction from 2005 Retail Sales)</u>
<u>2010</u>	<u>1.25%</u>
<u>2011</u>	<u>2.5%</u>
<u>2012</u>	<u>4.00%</u>
<u>2013</u>	<u>6.00%</u>

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<u>2014</u>	<u>8.00%</u>
<u>2015</u>	<u>10.00%</u>
<u>2016</u>	<u>12.50%</u>
<u>2017</u>	<u>15.00%</u>
<u>2018</u>	<u>17.50%</u>
<u>2019</u>	<u>20.00%</u>
<u>2020</u>	<u>22.00%</u>

### **R14-2-2405. Implementation Plans**

- A.** On June 1 of each year, each affected utility shall file with Docket Control, for Commission review and approval, an implementation plan describing how the affected utility intends to meet the energy efficiency standard for the next calendar year.
- B.** The implementation plan shall include the following information:
1. A description of the affected utility's compliance with the requirements of these rules for the previous calendar year;
  2. A description of how the affected utility intends to comply with this Article for the next calendar year, including an explanation of any modification to the rates of an existing adjustment mechanism or DSM tariff that the affected utility believes is necessary;
  3. A description of each DSM measure and DSM program to be newly implemented or continued in the next calendar year and an estimate of the annual kWh and kW savings projected to be obtained through each DSM measure and DSM program;
  4. The estimated total cost and cost per kWh reduction of each DSM measure and DSM program described in subsection (B)(3);
  5. A DSM tariff filing complying with R14-2-2406(A) or a request to modify and reset an adjustment mechanism complying with R14-2-2406(C), as applicable; and
  6. For each new DSM program or DSM measure that the affected utility desires to implement, a program proposal complying with R14-2-2407.
- C.** An affected utility shall notify its customers of its annual implementation plan filing through a notice in its next regularly scheduled customer bills.

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- D.** The Commission may hold a hearing to determine whether an affected utility's implementation plan satisfies the requirements of this Article.
- E.** An affected utility's Commission-approved implementation plan, and the DSM measures and DSM programs authorized thereunder, shall continue in effect until the Commission takes action on a new implementation plan for the affected utility.

### **R14-2-2406. DSM Tariffs**

- A.** An affected utility's DSM tariff filing shall include the following:
- 1.** A detailed description of each method proposed by the affected utility to recover the reasonable and prudent costs associated with implementing the affected utility's intended DSM measures and DSM programs;
  - 2.** Financial information and supporting data sufficient to allow the Commission to determine the affected utility's fair value, including, at a minimum, the information required to be submitted in a utility annual report filed under R14-2-212(G)(4);
  - 3.** Data supporting the level of costs that the affected utility believes will be incurred in order to comply with this Article; and
  - 4.** Any other information that the Commission believes is relevant to the Commission's consideration of the tariff filing.
- B.** The Commission shall approve, modify, or deny a tariff filed pursuant to subsection (A) within 180 days after the tariff has been filed. The Commission may suspend this deadline or adopt an alternative procedural schedule for good cause.
- C.** If an affected utility has an existing adjustment mechanism to recover the reasonable and prudent costs associated with implementing DSM measures and DSM programs, the affected utility may, in lieu of making a tariff filing under subsection (A), file a request to modify and reset its adjustment mechanism by submitting the information required under subsections (A)(1) and (3).

### **R14-2-2407. Commission Review and Approval of DSM Programs and DSM Measures**

- A.** An affected utility shall obtain Commission approval before implementing a new DSM program or DSM measure.

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- B.** An affected utility may apply for Commission approval of a DSM program or DSM measure by submitting a program proposal either as part of its annual implementation plan submitted under R14-2-2405 or through a separate application.
- C.** A program proposal shall include the following:
1. A description of the DSM program or DSM measure that the affected utility desires to implement;
  2. The affected utility's objectives and rationale for the DSM program or DSM measure;
  3. A description of the market segment at which the DSM program or DSM measure is aimed;
  4. An estimated level of customer participation in the DSM program or DSM measure;
  5. An estimate of the baseline;
  6. The estimated societal benefits and savings from the DSM program or DSM measure;
  7. The estimated societal costs of the DSM program or DSM measure;
  8. The estimated environmental savings to be derived from the DSM program or DSM measure;
  9. The estimated benefit-cost ratio of the DSM program or DSM measure;
  10. The affected utility's marketing and delivery strategy;
  11. The affected utility's estimated annual costs and budget for the DSM program or DSM measure;
  12. The implementation schedule for the DSM program or DSM measure;
  13. A description of the affected utility's plan for monitoring and evaluating the DSM program or DSM measure; and
  14. Any other information that the Commission believes is relevant to the Commission's consideration of the tariff filing.
- D.** In determining whether to approve a program proposal, the Commission shall consider:
1. The extent to which the Commission believes the DSM program or DSM measure will meet the goals set forth in R14-2-2403(A), and
  2. All of the considerations set forth in R14-2-2403(B).

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- E.** Staff may request modifications of on-going programs to ensure consistency with this Article. The Commission shall allow utilities adequate time to notify customers of program modifications.

### **R14-2-2408. Parity and Equity**

- A.** An affected utility shall develop and propose DSM programs or DSM measures for residential, non-residential, and low-income customers.
- B.** An affected utility shall allocate DSM funds collected from residential customers and from non-residential customers proportionately to those customer classes to the extent practicable.
- C.** The affected utility costs of DSM programs for low-income customers shall be borne by all customer classes, except where a customer class is specifically exempted by Commission order.
- D.** DSM funds collected by an affected utility shall be used, to the extent practicable, to benefit that affected utility's customers.
- E.** All customer classes of an affected utility shall bear the costs of DSM programs or DSM measures by payment through a non-bypassable mechanism, unless a customer class is specifically exempted by Commission order.

### **R14-2-2409. Reporting Requirements**

- A.** By March 1 of each year, an affected utility shall submit to the Commission a DSM progress report providing information for each of the affected utility's Commission-approved DSM programs and DSM measures and including at least the following:
- 1.** An analysis of the affected utility's progress towards meeting the annual energy efficiency standard;
  - 2.** A list of the affected utility's current Commission-approved DSM programs and DSM measures, organized by customer segment;
  - 3.** A description of the findings from any research projects completed during the previous year;
  - 4.** The following information for each Commission-approved DSM program or DSM measure:
    - a.** A brief description;
    - b.** Goals, objectives, and savings targets;

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- c. The level of customer participation during the previous year;
  - d. The costs incurred during the previous year, disaggregated by type of cost, such as administrative costs, rebates, and monitoring costs;
  - e. A description and the results of evaluation and monitoring activities during the previous year;
  - f. Savings realized in kW, kWh, therms, and BTUs, as appropriate;
  - g. The environmental savings realized, including emissions and water savings;
  - h. Incremental benefits and net benefits, in dollars;
  - i. Performance-incentive calculations for the previous year;
  - j. Problems encountered during the previous year and proposed solutions;
  - k. A description of any modifications proposed for the following year; and
  - l. Whether the affected utility proposes to terminate the DSM program or DSM measure and the proposed date of termination.
- B.** By September 1 of each year, an affected utility shall file a status report including a tabular summary showing the following for each current Commission-approved DSM program and DSM measure of the affected utility:
- 1. Semi-annual expenditures compared to annual budget, and
  - 2. Participation rates.
- C.** An affected utility shall file each report required by this Section with Docket Control, where it will be available to the public, and shall make each such report available to the public upon request.
- D.** An affected utility may request within its implementation plan that these reporting requirements supersede specific existing DSM reporting requirements.
- E.** In the affected utility's March and September billings of each year the utility shall provide each customer with a summary of the total billed electricity for the last six months of the previous calendar year and the first six months of the current calendar year, respectively. The summary shall include:
- 1. A pie chart showing the total amount billed to the customer and that portion of the total bill that accounts for all surcharges, such as, but not limited to, energy

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efficiency, renewable energy, demand side management, fuel, and purchased power.

2. A second pie chart depicting the total of all surcharges shown in the first pie chart, broken down by individual surcharge.

### **R14-2-2410. Cost Recovery**

- A.** An affected utility may recover the costs that it incurs in planning, designing, implementing, and evaluating a DSM program or DSM measure if the DSM program or DSM measure is all of the following:
  1. Approved by the Commission before it is implemented;
  2. Implemented in accordance with a Commission-approved program proposal or implementation plan; and
  3. Monitored and evaluated for cost-effectiveness.
- B.** An affected utility shall monitor and evaluate each DSM program and DSM measure, as provided in R14-2-2415, to determine whether the DSM program or DSM measure is cost-effective and otherwise meets expectations.
- C.** If an affected utility determines that a DSM program or DSM measure is not cost-effective or otherwise does not meet expectations, the affected utility shall include in its annual DSM progress report filed under R14-2-2409 a proposal to modify or terminate the DSM program or DSM measure.
- D.** An affected utility shall recover its DSM costs concurrently, on an annual basis, with the spending for a DSM program or DSM measure, unless the Commission orders otherwise.
- E.** An affected utility may recover costs from DSM funds for any of the following items, if the expenditures will enhance DSM:
  1. Incremental labor attributable to DSM development,
  2. A market study,
  3. A research and development project such as applied technology assessment,
  4. Consortium membership, or
  5. Another item that is difficult to allocate to an individual DSM program.
- F.** The Commission may impose a limit on the amount of DSM funds that may be used for the items in subsection (E).

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- G.** If goods and services used by an affected utility for DSM have value for other affected utility functions, programs, or services, the affected utility shall divide the costs for the goods and services and allocate funding proportionately.
- H.** An affected utility shall allocate DSM costs in accordance with generally accepted accounting principles.

**R14-2-2411. Performance Incentives**

- A.** An affected utility that achieves at least 85% compliance with the annual energy efficiency standard in a calendar year, calculated as provided in subsection (B), may recover in the following calendar year, through its Commission-approved cost-recovery mechanism, a performance incentive established as provided in the table below:

<u>Level of Compliance with Annual Energy Efficiency Standard Achieved (Excluding Net Benefits from Demand Response)</u>	<u>Performance Incentive as a Percentage of Net Benefits from Energy Efficiency Programs</u>	<u>Performance Incentive Capped at a Percentage of Program Costs</u>
<u>85% to 95%</u>	<u>6%</u>	<u>12%</u>
<u>96% to 105%</u>	<u>7%</u>	<u>14%</u>
<u>106% to 115%</u>	<u>8%</u>	<u>16%</u>
<u>116% to 125%</u>	<u>9%</u>	<u>18%</u>
<u>Above 125%</u>	<u>10%</u>	<u>20%</u>

- B.** An affected utility shall not include net benefits derived from demand response programs when calculating compliance with the annual energy efficiency standard for purposes of determining the performance incentive under this Section.

**R14-2-2412. Cost-Effectiveness**

- A.** An affected utility shall ensure that the incremental benefits to society of the affected utility’s overall DSM portfolio exceed the incremental costs to society of the DSM portfolio.
- B.** The Societal Test shall be used to determine cost effectiveness.
- C.** The analysis of a DSM program’s or DSM measure’s cost-effectiveness may include:

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1. Costs and benefits associated with reliability, improved system operations, and customer service;
  2. Savings of both natural gas and electricity; and
  3. Any uncertainty about future streams of costs or benefits.
- D.** An affected utility shall make a good faith effort to quantify water consumption savings and air emission reductions, while other environmental costs or the value of environmental improvements shall be quantified when practical but may be expressed qualitatively.
- E.** Market transformation programs shall be analyzed for cost-effectiveness by measuring market effects compared to program costs.
- F.** Educational Programs shall be analyzed for cost-effectiveness based on estimated energy and peak demand savings resulting from increased awareness about energy use and opportunities for saving energy.
- G.** Research and development and pilot programs are not required to demonstrate cost-effectiveness.
- H.** An affected utility's low-income customer program portfolio shall be cost-effective, but costs attributable to necessary health and safety measures shall not be used in the calculation.

### **R14-2-2413. Baseline Estimation**

- A.** To determine baseline, an affected utility shall estimate the level of electric demand and consumption and the associated costs that would have occurred in the absence of a DSM program or DSM measure.
- B.** For demand response programs, an affected utility shall use customer load profile information to verify baseline consumption patterns and the peak demand savings resulting from demand response actions.
- C.** For installations or applications that have multiple fuel choices, an affected utility shall determine baseline using the same fuel source actually used for the installation or application.

### **R14-2-2414. Fuel Neutrality**

- A.** Ratepayer-funded DSM shall be developed and implemented in a fuel-neutral manner.

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- B.** An affected utility shall use DSM funds collected from electric customers for electric DSM measures or electric DSM programs, unless otherwise ordered by the Commission.
- C.** An affected utility may use DSM funds collected from electric customers for thermal envelope improvements.

### **R14-2-2415. Monitoring, Evaluation, and Research**

- A.** An affected utility shall monitor and evaluate each DSM program and DSM measure to:
  - 1.** Ensure compliance with the cost-effectiveness requirements of R14-2-2412;
  - 2.** Determine participation rates, energy savings, and demand reductions;
  - 3.** Assess the implementation process for the DSM program or DSM measure;
  - 4.** Obtain information on whether to continue, modify, or terminate a DSM program or DSM measure; and
  - 5.** Determine the persistence and reliability of the affected utility's DSM.
- B.** An affected utility may conduct evaluation and research, such as market studies, market research, and other technical research, for program planning, product development, and program improvement.

### **R14-2-2416. Program Administration and Implementation**

- A.** An affected utility may use an energy service company or other external resource to implement a DSM program or DSM measure.
- B.** The Commission may, at its discretion, establish independent program administrators who would be subject to the relevant requirements of these rules.

### **R14-2-2417. Leveraging and Cooperation**

- A.** An affected utility shall, to the extent practicable, participate in cost sharing, leveraging, or other lawful arrangements with customers, vendors, manufacturers, government agencies, other electric utilities, or other entities if doing so will increase the effectiveness or cost-effectiveness of a DSM program or DSM measure.
- B.** An affected utility shall participate in a DSM program or DSM measure with a natural gas utility when doing so is practicable and if doing so will increase the effectiveness or cost-effectiveness of a DSM program or DSM measure.