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BEFORE THE ARIZONA CORPORATION COMMISSION

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**IN THE MATTER OF THE NOTICE
OF PROPOSED RULEMAKING
REGARDING ELECTRIC ENERGY
EFFICIENCY RULES**

DOCKET NO. RE-00000C-09-0427

**ARIZONA PUBLIC SERVICE
COMPANY'S COMMENTS ON
PROPOSED ENERGY EFFICIENCY
RULES**

I. INTRODUCTION

On October 30, 2009, the Arizona Corporation Commission ("Commission") Staff filed proposed Electric Energy Efficiency Rules ("Proposed EE Rules"), and encouraged all interested parties to provide written comments regarding their proposal. The following comments, along with redlined recommendations to the Proposed EE Rules (Attachment A), are Arizona Public Service Company's ("APS" or "Company") response to Staff's request.

APS is a strong proponent of energy efficiency, and is implementing robust DSM programs today. APS recognizes that in addition to providing customers a means to lower their bills, energy efficiency measures provide for reductions in fuel costs and environmental impacts, as well as the potential to defer certain investments in generation and transmission infrastructure over the long-term.

That being said, APS has serious concerns regarding a fundamental omission in the Proposed EE Rules. While the Proposed EE Rules incorporate many of the provisions discussed at the Commission's Energy Efficiency workshops, these draft rules include two significant differences: 1) the proposed energy efficiency standard ("EE Standard") is one of the most aggressive standards in the nation; and 2) the draft rules are silent on any regulatory solutions for the significant problem of utility disincentives (which are distinct

1 from performance incentives) to promote programs that reduce revenue. The contrast of
2 these two components in the Proposed EE Rules is troubling.

3 As noted in previously filed comments to the Commission regarding the development
4 of an EE Standard, APS recognizes that the accelerated timeframe to promulgate energy
5 efficiency rules precluded a full examination of the ratemaking approaches that could be
6 adopted to ensure that utilities have the opportunity to recover the full fixed costs of serving
7 their customers. Nonetheless, regulatory actions, such as the development of rate design and
8 ratemaking methods that resolve regulatory disincentives for public utilities to achieve
9 increased energy efficiency savings, are fundamental to sustainable energy efficiency
10 programs. For that reason, in these rules APS is simply seeking the inclusion of language
11 that acknowledges that the Commission would issue a final order removing regulatory
12 disincentives either in a generic docket or no later than each utility's next rate case filed
13 following the approval of the energy efficiency rules. APS believes that this is a reasonable
14 approach that will allow these rules to proceed expeditiously, while still ensuring that
15 legitimate cost recovery concerns will be addressed.

16 While APS realizes that adoption of a state-wide EE Standard could stimulate the
17 implementation of energy efficiency on a wide-reaching basis, if the utility's regulatory
18 disincentives associated with implementing an EE Standard are not also addressed, such a
19 standard is simply not sustainable and the long-term objectives for the standard cannot be
20 achieved. On the other hand, with the inclusion of language that reflects the Commission's
21 commitment to address these issues in the future, and with some modifications to the
22 components that comprise the 22% EE Standard, APS supports the EE Standard and
23 believes that it would establish Arizona as a national leader in energy efficiency.

24 In its consideration of the Proposed EE Rules, the Commission also should be
25 cognizant of the potential cost of attaining targeted levels of energy efficiency and the
26 impact of such costs on utility customers. Additionally, customer participation is critical to
27 successfully achieve the EE Standard. Customer participation can be encouraged through
28 education, marketing and financial incentives, but it cannot be compelled by either the

1 Commission or the utility. This inherent limitation on the ability to achieve an EE Standard
2 should be considered in any evaluation of utility performance under the standard.

3 The following discussion addresses APS's recommendations.

4 **II. SPECIFIC COMMENTS REGARDING THE PROPOSED EE RULES**

5 **A. Cost Recovery: Aligning Customer and Utility Interests.**

6 It is APS's position that the Commission must address the rate and regulatory
7 disincentives that will result from the implementation of the proposed EE Standard. This is
8 a fundamental requirement for a successful EE Standard. These disincentives are related to
9 the fixed costs of providing service to customers (those costs that do not fluctuate with the
10 amount of energy consumed, such as fixed costs associated with the existing generation
11 fleet, transmission and distribution wires, among others) which, under traditional
12 ratemaking practice, are mostly recovered through volumetric rates, such as a usage charge.
13 The disincentives are significant. For example, the unrecovered fixed cost for the energy
14 efficiency measures proposed in the Company's rate case settlement through 2012 is \$105
15 million.¹ Additionally, distributed energy requirements, such as those in the Commission's
16 Renewable Energy Standard ("RES") Rules, have a similar impact on the recovery of fixed
17 costs. Thus, the combination of an aggressive EE Standard and a robust distributed energy
18 program further compounds the problem of recovery of prudently-incurred fixed costs of
19 providing service to customers.

20 Under traditional ratemaking methodology, when kilowatt-hour sales decrease in
21 response to energy efficiency programs between rate cases, fixed costs will never be fully
22 recovered. This under-recovery creates utility disincentives and increases financial risk for
23 which investors will require additional compensation. Therefore, in order to promote
24 energy conservation, ratemaking approaches must be modified to ensure that utilities have a
25 reasonable opportunity to recover the fixed costs of serving their customers.² While APS
26 does not desire to delay the implementation of these rules, we believe it is critical that the

27 ¹ Docket No. E-01345A-08-0172.

28 ² This disincentive to utility promotion of energy efficiency programs is recognized by the Energy Independence and Security Act of 2007, Section 532(a)(16) and (17).

1 rules themselves acknowledge the need to address this issue in a generic docket or in each
2 individual utility's next general rate case.

3 It is important to emphasize that addressing regulatory disincentives is an issue
4 distinct from the topic of performance incentives. Performance incentives are intended to
5 encourage utility implementation of energy efficiency programs to maximize the customer
6 benefits of such programs. In contrast, the regulatory disincentive is essentially a
7 ratemaking issue. In addition, the magnitude of regulatory disincentives is significantly
8 greater than any revenues that would be associated with performance incentives.

9 A number of approaches aimed at eliminating regulatory disincentives were
10 discussed during the Energy Efficiency Workshops. Methodologies to remove disincentives
11 that have been employed in the leading energy efficiency regulatory jurisdictions are
12 examples of effective regulatory practices that this Commission could employ to address
13 this issue.³ For example, the California Public Utilities Commission ("CPUC") utilizes
14 decoupling (a ratemaking methodology that breaks the link between the utility's ability to
15 recover its fixed costs from the actual volume of sales in a test year) for its regulated
16 utilities. The CPUC states that decoupling removes the disincentive for utilities to
17 encourage energy efficiency, provides an incentive for utilities to focus on energy efficiency
18 and invest in activities that reduce load, and aligns shareholder and customer interests to
19 provide for more economically and environmentally efficient resource decisions.⁴

20 The New York Public Service Commission ("NYPSC") required each of its regulated
21 utilities to develop decoupling mechanisms, stating:

22 To the extent current design of utility delivery rates continue to link the
23 recovery of utility fixed costs, including profits, to the volume of actual sales,
24
25

26 ³ Leading energy efficient regulatory jurisdictions as determined by the American Council for an Energy
27 Efficient Economy ("ACEEE") in *The 2009 State Energy Efficiency Scorecard*, Report Number E097
28 (October 2009) are California, Massachusetts, Connecticut, Oregon, New York, Vermont, Washington,
Minnesota, Rhode Island, and Maine.

⁴ From CPUC brochure entitled *California's Decoupling Policy*, available at
<http://www.fypower.org/pdf/Decoupling.pdf> (accessed 11/6/09).

1 disincentives exist that limit the utilities' interest in promoting efficient energy
2 use.⁵

3 Likewise, the Massachusetts Department of Public Utilities ("DPU") is moving its
4 utilities to a decoupling ratemaking system as a "first step in altering the regulatory
5 landscape in Massachusetts in a way that will fully align the financial interests of the
6 shareholders of our investor-owned distribution companies with the economic and
7 environmental imperatives facing us today."⁶ Commissions in Oregon, Connecticut, and
8 Minnesota have also implemented decoupling programs for their regulated electric utilities.⁷

9 Using another method to remove utility disincentives to promote energy efficiency,
10 commissions in Vermont and Maine have adopted alternative rate plans that adjust base
11 rates annually using forecasted sales volumes to address ratemaking disincentives. As
12 stated by the Vermont Public Service Board ("VPSB"):

13 Under alternative regulation, CVPS [Central Vermont Public Service] will set
14 rates on the basis of customer load forecasts, taking into account the impacts
15 of load changes arising from factors such as self-generation, conservation,
16 efficiency and load management. These measures help to decouple CVPS's
earnings from its retail sales volumes between rate cases, thereby promoting
resource parity.⁸

17 Likewise, the Maine Public Utilities Commission ("MPUC") instituted alternative
18 rate plans for its utilities because "under traditional regulation, utilities have the financial
19 incentive to promote the consumption of electricity, and little incentive to pursue energy
20 efficiency or conservation."⁹

21
22 ⁵ NYPSC Press Release entitled "PSC Seeks More Efficient Energy Use -- Utility Revenue Decoupling
Mechanisms to Eliminate Disincentives" dated 4/18/07.

23 ⁶ DPU Order 07-50-A.

24 ⁷ "...relying on volumetric charges to recover fixed costs creates a disincentive to promote energy
efficiency..." Public Utility Commission of Oregon, Order No. 09-020 dated 1/22/09. "Lower sales due to
25 conservation reduce fixed cost recovery lowering earnings to the electric company, therefore creating a
disincentive for conservation. Decoupling mechanisms can reduce this disincentive which should encourage
26 more aggressive actions by the utility to promote conservation." Connecticut Department of Public Utility
Control Decision in Docket No. 07-07-01. "The purpose of decoupling is to reduce a utility's disincentive to
27 promote energy efficiency." M.S.A. § 216B.2412.

28 ⁸ VPSB Order in Docket No. 7336 dated 9/30/2008.

⁹ MPUC *Report on Utility Incentive Mechanisms for the Promotion of Energy Efficiency and System
Reliability* (February 2004).

1 On a federal level, energy efficiency and environmental advocates have been urging
2 the Department of Energy to follow up with states that have received funding under the
3 American Recovery and Reinvestment Act of 2009 ("ARRA") to assure that progress is
4 being made to adopt policies, like decoupling, that promote energy efficiency.¹⁰ (To receive
5 ARRA funding, a state governor was required to assure that the applicable state regulatory
6 authority would seek to implement a general policy that ensures that utility financial
7 incentives are aligned with helping customers use energy more efficiently.)¹¹ In addition,
8 the White House Council on Environmental Quality is soliciting expert opinions on utility
9 revenue decoupling, which has been widely supported by both environmentalists and the
10 utility industry as a method to remove a utility's disincentive to invest in energy
11 efficiency.¹²

12 While it is clear that the regulatory disincentive issue is critical to the success of
13 long-term energy efficiency programs, during the Commission's workshops, no consensus
14 was reached as to the best way to resolve the issue in this jurisdiction. APS believes that to
15 meet the Commission's accelerated timeline for approval of the EE Standard, an appropriate
16 procedure to address this fundamental ratemaking issue is to include a provision in these
17 rules specifying that the Commission would issue a final order removing regulatory
18 disincentives or barriers either in a generic docket or in each utility's next rate case
19 following the approval of the rules. This policy statement would represent a clear
20 recognition by this Commission of the challenge created by regulatory disincentives, and
21 would represent a commitment to address and remove the disincentives at the earliest
22 opportunity. This statement would be similar to that proposed in New Mexico's currently
23 pending energy efficiency rulemaking docket.¹³

24 APS cannot emphasize too strongly that this language is a **vital** part of the overall
25 intent of the EE Standard, to make Arizona a national leader in all aspects of energy

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27 ¹⁰ See *Energy Washington Week*, Vol. 6, No. 43, Oct. 28, 2009.

¹¹ See Title IV, Sec. 410.

¹² See *Energy Washington Week*, Vol. 6, No. 42, Oct. 21, 2009.

¹³ New Mexico Public Regulation Commission Case No. 08-0024-UT, opened March 2009.

1 efficiency. Without ratemaking mechanisms that address the regulatory disincentives, the
2 robust EE Standard cannot be sustained on a long-term basis. Additionally, as stated in
3 APS's previously filed comments,¹⁴ a secondary benefit of including this language in the EE
4 Standard would be to strengthen the argument that promulgation of energy efficiency rules
5 is directly related to the Commission's constitutional ratemaking authority, and thus less
6 susceptible to potential legal challenge.

7 **B. Energy Efficiency Standard.**

8 The Proposed EE Rules set forth a rigorous EE Standard; a 22% reduction in retail
9 electric sales is required by 2020. The Staff proposal also includes limitations on a number
10 of categories of energy savings that can be counted towards compliance with the EE
11 Standard. This is one of the most ambitious standards in the country, as illustrated by the
12 lower goals adopted in neighboring states, such as New Mexico and Colorado.¹⁵

13 A critical consideration in adopting an aggressive EE Standard is the cost of
14 implementing such a standard and the impact these costs may have on customers' rates. The
15 customer impact of the funding levels necessary to implement the aggressive EE Standard
16 each year between 2010 and 2020 is significant. Based on its filed 2010 DSM
17 Implementation Plan, which proposes energy efficiency measures and programs at a level
18 for 2010 that is slightly lower than set forth in the Proposed EE Rules (1.0% versus 1.25%),
19 APS estimates that the costs to meet the proposed 1.0% energy efficiency goal could be as
20 much as \$50 million in 2010. This would result in an increase of approximately \$1.05 per
21 month for the average residential customer's bill, and approximately \$7.00 a month for the
22 average non-residential customer. The Company estimates that these costs will escalate to
23 the range of \$200 million to \$300 million dollars *per year* by 2020. While these

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25 ¹⁴ APS filed comments and proposed rules on June 4, 2009.

26 ¹⁵ The New Mexico Efficient Use of Energy Act requires public utilities to meet an energy efficiency savings
27 goal of no less than 10% of 2005 total retail kWh sales in 2020 (as a result of energy efficiency and load
28 management programs implemented starting in 2007). NMSA § 62-17-5.(G) Legislation in Colorado
entitled "An Act Concerning Measures to Promote Energy Efficiency" set an energy efficiency goal for
investor-owned utilities of at least 5% of 2006 retail energy sales by 2018; however, the Colorado Public
Utilities Commission set a goal for Public Service of Colorado of 11% of 2006 retail energy sales by the year
2020. CRS § 40-302-104(2); CPUC Decision No. C08-0560 in Docket No. 07A-420E, dated 5/23/08.

1 expenditures will continue to produce cost effective program savings over the life of the
2 installed measures, they represent a significant cost increase to APS customers in the year in
3 which the measures are installed. When coupled with the annual increases to customer rates
4 for the costs of the escalating Renewable Energy Standard,¹⁶ along with potential rate
5 increases related to climate change legislation, it is clear that there will be significant
6 financial impacts on customers to implement these programs.

7 In the following sections, APS addresses its proposed modifications to Proposed EE
8 Rule R14-2-2404. Additionally, for the purpose of clarification, the Company is also
9 recommending modification to the rule provision that describes the 22% EE Standard.

10 ***1. Clarification of the EE Standard.***

11 As currently written, Proposed EE Rule R14-2-2404(A), which describes the EE
12 Standard, could be misinterpreted. That provision states:

13 By December 31, 2020, an affected utility shall, through DSM measures and
14 DSM programs, reduce its retail electric energy sales, measured in kWh, ***to a
point 22% below the affected utility's retail electric sales for the year 2005.***

15 (Emphasis added.)

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17 Taken literally, this would suggest that sales in 2020 would need to be 22% lower
18 than sales were in 2005 – meaning that savings from EE programs by 2020 would not only
19 need to offset ALL of the growth in sales between 2005 and 2020, but also reduce 2005
20 sales levels by an additional 22%. This level of savings may be impossible to achieve,
21 because it would require program savings between 15,000 and 21,000 gigawatt hours, which
22 is well over half of APS's total 2005 sales. To clarify this provision, APS recommends the
23 following modification to the rule:

24 By December 31, 2020, an affected utility shall, through DSM measures and
25 DSM programs, reduce its retail electric energy sales, measured in kWh, ***by an
amount equivalent to 22% of the affected utility's retail electric sales for the
year 2005.***

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27 APS believes that this language correctly reflects the intended EE Standard.

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¹⁶ See A.A.C. R14-2-1804.

1 2. ***Historical Energy Savings.***

2 Proposed EE Rule R14-2-2404(B) states that the historical energy savings from
3 Demand Side Management (“DSM”) programs or measures that were implemented after
4 2004 and prior to the effective date of the rules may be counted toward meeting the 22% EE
5 Standard, up to 3 percentage points. The effective date of the EE Rules is anticipated to be
6 sometime in 2010.

7 While a 3% cap may be appropriate for most utilities, for APS, who has been the
8 leading provider of DSM programs in Arizona, this cap is likely to preclude the Company
9 from receiving full credit for its efforts. With a comprehensive Energy Efficiency
10 Implementation Plan for 2010 currently filed for the Commission’s consideration, APS
11 expects to exceed 3% cumulative savings during 2010. Limiting the contribution of
12 historical results to a total of 3% effectively penalizes APS for aggressively pursuing energy
13 efficiency savings earlier than other utilities. APS proposes that the Commission either
14 eliminate the cap on historic results entirely, or raise the current proposed cap to 5%, so that
15 none of the savings that have been achieved under the Company’s DSM programs since
16 2005 would go uncounted.

17 3. ***Demand Response Savings.***

18 APS believes that the level of savings for demand response programs that should
19 count toward compliance with the EE Standard should be increased to at least 3 percentage
20 points.¹⁷ Demand response programs can provide an effective way of meeting future
21 summer peak capacity requirements and may provide a more cost-effective way of meeting
22 the requirements of the EE Standard. APS has already begun to implement demand
23 response programs. The Commission approved the Company’s proposal to offer eligible
24 commercial and industrial customers financial incentives to reduce electric usage during
25 summer system peak periods.¹⁸ Savings from that program will begin in 2010, and are
26 expected to reach 100 megawatts by 2012. APS estimates that up to 10,000 commercial and

27 ¹⁷ The Proposed EE Rules allows for 2 percentage points from demand response and load management. See
28 Proposed EE Rule R14-2-2404(C).

¹⁸ Decision No. 71104 (June 5, 2009).

1 industrial customers will participate in this program. APS is also analyzing the cost-
2 effectiveness of a demand response program for residential customers. APS urges the
3 Commission to allow the savings from all cost-effective programs to count toward the
4 proposed EE Standard.

5 **4. *Utility Delivery System Efficiency Improvements.***

6 APS believes that the intent of the EE Rules is to encourage utilities to pursue all
7 cost-effective opportunities to improve energy efficiency. Improvements to the Company's
8 electricity delivery system that reduce energy losses incurred in the delivery of power to
9 customers, such as conductor replacement and more efficient distribution transformers,
10 could be cost-effective measures and should be allowed to count towards the EE Standard.
11 In fact, the allowance of the energy savings from electric delivery system improvements
12 could provide a valuable tool to manage the overall cost of meeting the proposed EE
13 Standard.

14 Furthermore, these types of improvements, which are undertaken by the utility, are a
15 source of energy and cost savings for customers that do not rely on customer actions.
16 Including these system improvements would also recognize that the environmental benefits
17 from improving energy efficiency are the same regardless of whether the energy savings
18 occur on the customer side of the meter or on the utility's delivery system. Additionally, the
19 cost savings derived from improvements to the utility's delivery system have the added
20 benefit of being shared across the entire customer base.

21 Projects that increase distribution system efficiency are allowable energy efficiency
22 programs in several jurisdictions. For example, a Virginia statute specifically includes
23 "measures, such as but not limited to the installation of advanced meters, implemented or
24 installed by utilities, that reduce fuel use or losses of electricity and otherwise improve
25 internal operating efficiency in generation, transmission, and distribution systems" as energy
26 efficiency programs.¹⁹ Likewise, Ohio statutes allow for infrastructure improvements that
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¹⁹ Va. Code § 56-576.

1 reduce line losses to be considered an energy efficiency programs.²⁰ Commission rules in
2 the state of Washington define conservation as “any reduction in electric power
3 consumption resulting from increases in the efficiency of energy use, production, or
4 distribution.”²¹ And Connecticut statutes award incentives to distribution utilities that
5 develop and implement approved load curtailment, demand reduction, and/or retrofit
6 conservation programs that alleviate congestion on transmission systems.²²

7 APS recommends that delivery system improvements be allowed to contribute up to
8 one percent of the 22% EE Standard.

9 5. *Building Codes and Standards.*

10 The Proposed EE Rules do not include any provision for acknowledging the impact
11 of increasing building codes and appliance efficiency standards on the EE Standard. As
12 building codes and appliance efficiency standards are changed and raised over time, they
13 raise the baseline against which utility program efficiency improvements are measured. As
14 such, increases in building codes and standards make it more difficult to attain energy
15 savings from utility energy efficiency programs. Because a utility can only claim the
16 incremental energy savings between standard equipment and high efficiency equipment,
17 when the standard equipment improves, there is less energy savings that can be counted
18 towards the EE Standard.

19 Estimating the near term impact of enhanced codes and standards is inherently
20 difficult; however, the significant role of building codes and standards in achieving the EE
21 Standard cannot be ignored. Many jurisdictions with a state-wide energy efficiency
22 standard include regulations that address building codes and appliance efficiency
23 standards.²³ Therefore, the rules should permit utilities to allocate funding to advocate for
24 increases in building codes and appliance standards that are designed to reduce energy

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26 ²⁰ “Programs implemented by a utility may include demand-response programs, customer-sited programs,
and transmission and distribution line infrastructure improvements that reduce line losses.” O.R.C. §
4928.66(A)(2)(d).

27 ²¹ W.A.C. 480-109-007(3).

28 ²² C.G.S.A. § 16-243(s).

²³ These states include California, Massachusetts, Oregon, Washington, Maryland, and Rhode Island.

1 usage. Subsequently, affected utilities should be able to count one-half of the energy
2 savings resulting from those improvements in building codes and standards. This is the
3 approach currently being considered in California.

4 **C. Timing.**

5 There is a timing issue related to the Commission's approval of the utility's annual
6 Implementation Plan filings.²⁴ To successfully reach compliance with the ambitious EE
7 Standard, a significant and concentrated effort will be required from the affected utilities to
8 implement programs and educate customers. To successfully meet these goals, it is
9 necessary for the annual DSM Implementation Plans to be approved prior to the start of the
10 next compliance year, so that new programs and DSM measures can be introduced and
11 implemented in a timely manner. The Energy Efficiency Rules should specifically address
12 this issue. Timely action would require that the plans are reviewed and approved prior to
13 January 1st of the year in which the plan is to be implemented.

14 **D. Performance Incentive.**

15 APS agrees with the proposed tiered performance incentive, which encourages
16 performance over and above the annual efficiency savings goals by offering increased
17 incentives as the goals are met and exceeded. It also provides for reduced incentives if the
18 savings goals are not met. This proposed incentive structure will require utilities to focus on
19 programs with the highest net benefits to customers, in order to maximize its potential
20 incentive payments.

21 However, APS believes that the performance incentive should be collected in the
22 same calendar year in which the affected utility incurs the program costs and produces the
23 net benefits to customers upon which the performance incentive is based. Program costs
24 and performance incentives should begin to be recovered during the year they will be
25 incurred based on estimated costs and then later trued-up to actual costs and incentives
26 earned. The Commission has approved this approach in Decision No. 70628.²⁵ A similar
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28 ²⁴ The Implementation Plan is a new procedure, described in Proposed EE Rule R14-2-2405.

²⁵ This Commission Decision addresses Tucson Electric Power Company's DSM adjutor.

1 approach has been adopted by the settling parties in APS's current rate case settlement
2 agreement, which is pending Commission approval.²⁶

3 **E. Third Party Administrators.**

4 APS believes that the Proposed EE Rule provision that would allow for the
5 establishment of independent program administrators is unnecessary and would provide no
6 assurances of more effective administration of energy efficiency programs than those
7 administered by utilities.²⁷

8 A recent study concluded that there is no single best approach to the administration
9 of energy efficiency programs.²⁸ The study examined fourteen states with the highest levels
10 of energy efficiency achievements to identify the factors that have contributed to their high
11 levels of performance, and the factors that could provide significant increases in those top
12 levels of performance. In nine of these states, the utility companies administered the energy
13 efficiency programs;²⁹ three states have programs that are administered by an independent
14 third party organization;³⁰ and two states feature administration by a state agency.³¹ The
15 study found no correlation between the level of success and the entity implementing the
16 programs.

17 Furthermore, there was no evidence among these fourteen states to indicate that the
18 cost required to achieve DSM savings was less for third party administration than for utility
19 administration. Indeed, the evidence that exists would indicate the opposite. The same
20 study referenced above indicated that the average cost per kilowatt hour over the lifetime of
21 energy efficiency measures was 1.81 cents per kilowatt hour for programs administered by
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24 _____
25 ²⁶ Docket No. E-01345A-08-0172.

26 ²⁷ Proposed EE Rule R14-2-2416(B).

27 ²⁸ ACEEE "Meeting Aggressive New State Goals for Utility-Sector Energy Efficiency: Examining Key
28 Factors Associated with High Savings" (March 2009).

²⁹ These include California, Massachusetts, Connecticut, New Mexico, Washington, Texas, Iowa, Rhode
Island and Nevada.

³⁰ These states are Vermont, Oregon, and Wisconsin.

³¹ New York and New Jersey have state administered energy efficiency programs.

1 utility companies, and 2.04 cents per kilowatt hour for programs administered by third
2 parties.³²

3 In fact, some states are moving away from a third-party administrator. For example,
4 the New York Public Service Commission has recently re-established investor-owned
5 utilities as energy efficiency program administrators (after several years of a single third-
6 party program provider), stating that additional policy considerations support the addition of
7 utilities as program administrators. These considerations include aligning utility financial
8 interests with energy efficiency in utility resource planning, development of on-bill
9 financing as a means of reducing reliance on ratepayer-funded programs, benefiting from
10 utility access to identify potential program participants among customers, and benefiting
11 from competitive efficiency and diversity of approaches.³³

12 APS believes that a third party administrator would undermine the utility's ability to
13 present a comprehensive, holistic array of programs and services to meet the customers'
14 needs. Additionally, such an arrangement may compromise any potential leveraging and
15 synergies between program offerings. APS is closely tied to its customer needs within the
16 Company's service territory, and has successfully implemented and administered numerous
17 energy efficiency programs.

18 **F. Reporting Requirements.**

19 The Proposed EE Rules include a provision that contains extensive reporting
20 requirements for the utility to inform the Commission, the public and its customers
21 regarding the progress that is being made toward compliance with the EE Standard. APS

22 ³² Costs per lifetime kWh are based on each state reported annual DSM spending and kWh savings achieved
23 in 2007 (most recent year available in the ACEEE study) multiplied by an average measure lifetime of 12
24 years. "Meeting Aggressive New State Goals for Utility-Sector Energy Efficiency: Examining Key Factors
25 Associated with High Savings", Martin Kushler, *et. al*, ACEEE Report Number U091, (March 2009).

26 ³³ NYPSC Order Establishing Energy Efficiency Portfolio Standard and Approving Programs in Case 07-M-
27 0548 dated 6/23/08. In addition, even state run programs can have unintended consequences. For example,
28 in 2005, Wisconsin enacted a statute that revised the structure of the statewide energy efficiency programs
(then administered by the Wisconsin Department of Administration) by opting to move administration of
these programs back to the state's investor-owned utilities. One motivation for this change was a desire to
stop transfers or re-allocations of funds from the state administered Utility Public Benefit Fund into the
state's General Fund for other specified uses. These transfers had equaled over \$108 million from 2003 to
2006. Wisconsin Legislative Council Information Memorandum IM-2006-01.

1 recognizes the need to keep all interested parties apprised of this information; however, the
2 Company believes that some modifications should be made to Proposed EE Rule R14-2-
3 2409.

4 ***Customer Specific Information:*** Section (E) of this rule requires that twice a year,
5 an affected utility provide customers with individualized information about their bills,
6 looking back to the last six months of the previous calendar year, and the first six months of
7 the current calendar year. APS recognizes that educating customers regarding energy usage
8 may motivate some customers to adopt energy efficiency measures. However, to program
9 the customer information system to make the required individualized calculations will be
10 expensive, and may not be the most effective way to share the information with our
11 customers.

12 Providing the additional bill information, which must be presented in the form of
13 “pie-charts” depicting billing and surcharge components, will be costly to implement. APS
14 has estimated that compliance with the reporting requirement will cost approximately
15 \$400,000 to \$600,000 to initially reprogram customer billing and accounting systems, and
16 \$100,000 to \$150,000 of ongoing costs each year due to increased bill production and
17 mailing expenses. Furthermore, these reporting requirements are duplicative of information
18 that is already provided on customers’ bills, albeit in the form of unbundled line items.

19 Additionally, there is some doubt that information in customer bills is the most
20 effective way to communicate with our customers. In APS’s most recent rate case, the topic
21 of the complexity of APS’s bills was a point of discussion between APS’s witnesses and the
22 Administrative Law Judge. The Company, as well as the Commission, receives frequent
23 customer comments regarding bill complexity, which is a result of a rule requirement to
24 provide unbundled bill elements. Adding additional elements to the bill in the form of pie
25 charts would add to bill complexity and provides little additional information to customers.

26 APS believes that an alternative form of providing this information, such as posting
27 to APS’s customer account web pages on the Company’s website, aps.com, would also
28 provide a vehicle for educating customers about their energy usage and costs. It has the

1 further benefit of being available any time of the year. With this approach, the initial
2 programming costs discussed above would remain, but the on-going annual costs of
3 production and mailing would be eliminated.

4 Another approach would be to provide information once a year, based on average
5 class usage (such as residential or commercial). This approach would significantly reduce
6 the cost of providing information to customers.

7 **March 1st Progress Report:** Section (A) of this rule requires that each affected utility
8 submit a DSM progress report, which includes detailed information. APS anticipates that
9 this would be similar to the Company's current Semi-Annual Report and would include a
10 full recap of the prior year achievements. The Company understands that because the
11 summary of prior year's programs and progress would be provided in the March 1st progress
12 report, the information in the Implementation Plan regarding the utility's compliance with
13 the EE Standard the previous year would be a summary discussion.³⁴ The Company would
14 be filing a detailed Implementation Plan³⁵ within a few months of the filing of the March 1st
15 progress report, and that plan will provide detail of new programs and modifications to
16 current programs. Therefore, the requirement in section R14-2-2409(A)(4)(k), which
17 requires that the March 1st progress report include "a description of any modifications
18 proposed for the following year", is duplicative and unnecessary, and should be omitted
19 from the proposed rules.

20 **G. Inclusion of Waiver Language.**

21 Absent from the Proposed EE Rules is a provision that articulates the Commission's
22 authority to waive compliance with any provision of the rules for good cause. APS
23 recognizes that the Commission has the general authority to do so, but believes that the
24 explicit authority contained within the rules is a legally sound approach. Many of the
25 Commission's rules include such a provision, including the Commission's RES Rules, the

26
27 ³⁴ Proposed EE Rule R14-2-2405(B)(1) states that "a description of the affected utility's compliance with the
28 requirements of these rules for the previous calendar year" must be included in the utility's Implementation
Plan.

³⁵ See Proposed EE Rule R14-2-2405.

1 Affiliated Interest Rules, and the Commission's Rules of Procedure, among others.³⁶ APS
2 recommends including similar language as that contained in the RES Rules, which states:

- 3 A. The Commission may waive compliance with any provision of this
4 Article for good cause.
- 5 B. Any Affected Utility may petition the Commission to waive its
6 compliance with any provision of this Article for good cause.
- 7 C. A petition filed pursuant to these rules shall have priority over other
8 matters filed at the Commission.

8 See A.A.C. R14-2-1816.

9 **H. Additional Clarification Sought: Treatment of Low Income Customers.**

10 DSM programs for low income customers, such as billing assistance programs,
11 provide valuable benefits for customers beyond energy savings. Based on public policy
12 determinations, the Commission has historically deemed low income DSM programs to be
13 cost-effective.³⁷ Proposed EE Rule R14-2-2412 (H) simply states that "an affected utility's
14 low-income customer program portfolio *shall be* cost-effective ...". APS is not sure
15 whether this reflects a conscious change in previous policy with regard to such programs,
16 but to reflect the previous Commission policy, this language should be modified to state that
17 "an affected utility's low-income customer program portfolio *shall be deemed* cost-effective
18 ...".

19 **III. CONCLUSION**

20 APS supports the development of state-wide energy efficiency rules for all utilities.
21 In its consideration of such rules, the Commission should be cognizant of the potential cost
22 of attaining targeted levels of energy efficiency and the impact of such costs on utility
23 customers. And to be effective at any level, but especially the aggressive levels of energy
24 efficiency required to meet the EE Standard, the rules must include provisions for adequate
25

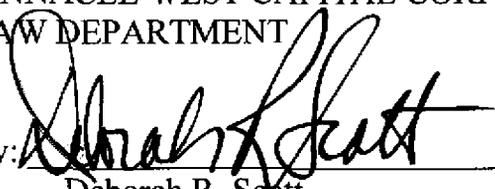
26 ³⁶ See R14-2-1816 (Renewable Energy Standard Rules); R14-2-806 (Affiliated Interest Rules); and R14-2-
27 212 (Rules of Procedure). See also R14-2-1311 (Telecommunications Interconnection and Unbundling
28 Rules); R14-2-909 (Customer-Owned Pay Telephone Rules); and R14-2-1014 (Alternative Operator Services
Rules).

³⁷ See Decision No. 68647 (April 12, 2006).

1 and timely funding to achieve the EE Standard and address the removal of the regulatory
2 disincentives. In regard to the latter, APS does not ask that these regulatory disincentives be
3 removed within the four corners of the Proposed EE Rules or that a "one size fits all"
4 solution is agreed upon now. Rather, the Company merely requests that the rules
5 acknowledge the problem and assure utilities that the problem will be resolved at the
6 Commission's next earliest opportunity, either in a generic docket or in individual utility
7 rate cases.

8 RESPECTFULLY SUBMITTED this day of 13th day of November, 2009.

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11
12 By: 

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14 Linda J. Benally

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16 ORIGINAL and thirteen (13) copies
17 of the foregoing filed this 13th day of
18 November, 2009, with:

19 Docket Control
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23 COPIES of the foregoing mailed, hand-delivered,
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**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
- R14-2-2402. Applicability
- R14-2-2403. Goals and Objectives
- R14-2-2404. Energy Efficiency Standards
- R14-2-2405. Implementation Plans
- R14-2-2406. DSM Tariffs
- R14-2-2407. Commission Review and Approval of DSM Programs and DSM Measures
- R14-2-2408. Parity and Equity
- R14-2-2409. Reporting Requirements
- R14-2-2410. Cost Recovery
- R14-2-2411. Performance Incentives
- R14-2-2412. Cost-effectiveness
- R14-2-2413. Baseline Estimation
- R14-2-2414. Fuel Neutrality
- R14-2-2415. Monitoring, Evaluation, and Research
- R14-2-2416. Program Administration and Implementation
- R14-2-2417. Leveraging and Cooperation
- R14-2-2418. Waiver from the Provisions of this Article

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

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.

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

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 and air emissions.~~
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 through avoided environmental impacts, including, but not limited to, water consumption~~

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

~~savings, air emission reduction, reduction in coal ash, and reduction of nuclear waste environmental benefits.~~

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.~~
- ~~3332.~~ “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.
- ~~3433.~~ “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.

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

3534. “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 ~~and including environmental benefits.~~
3635. “Staff” means individuals working for the Commission’s Utilities Division, whether as employees or through contract.
3736. “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.~~
37. “Unrecovered Fixed Costs” means fixed costs (such as a utility’s investment in generation, distribution and transmission infrastructure), which are recovered through volumetric charges, that are not recovered because a customer’s kWh monthly consumption is reduced due to DSM programs.

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;

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

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:

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 by an amount equivalent to~~ 22% below the affected utility's retail electric energy sales for the year 2005.
- B.** An affected utility is permitted to allocate funding to support increases in building codes and appliance standards that are designed to reduce energy usage, and can count one-half of the energy savings resulting from those improvements.
- BC.** 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.
- CD.** An affected utility's reductions in sales resulting from demand response and load management may comprise up to ~~2-3~~ 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.
- DE.** An affected utility's energy savings resulting from efficiency improvements to its delivery system may ~~not~~ be counted toward meeting the standard, up to 3 percentage points of the 22% reduction.
- EF.** An affected utility may count a customer's energy savings resulting from self-direction toward meeting the standard.

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

FG. 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.

GH. 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> |
| <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;

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

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.
- D.** The Commission will approve an affected utility's implementation plan prior to the start of the next compliance year as defined in R14-2-2405(A). 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

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

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.
- 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;

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

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).
- 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

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

- 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;
 - 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;
and
 - ~~k. A description of any modifications proposed for the following year; and~~
 - h. 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:

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

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 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

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

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).

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.

I. The Commission recognizes that regulatory disincentives may be a barrier to utility implementation of DSM measures and programs.

1. To better align the DSM interests of customers and the affected utility, each affected utility shall file a proposal for ratemaking methodologies to remove regulatory disincentives by no later than its next general rate case. These methods may include one or more of the following:

- a. Modifying the portion of fixed costs recovered through various rate elements,
- b. Reflecting the projected reduction in kWh sales from programs in the billing determinants used to set rates,
- c. Using projected data in the ratemaking process,
- d. Reflecting unrecovered fixed costs through a pro forma revenue adjustment in a rate case, or

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

- e. Adopting decoupling mechanisms and/or other mechanisms designed to address this issue.
2. By no later than the affected utility's next rate case subsequent to the approval of these rules, rate design and ratemaking methods that eliminate such regulatory disincentives will be adopted for each affected utility.

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 and concurrent with the spending for a DSM measure or program, 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> |
|--|--|--|
| 85% to 95% | 6% | 12% |
| 96% to 105% | 7% | 14% |
| 106% to 115% | 8% | 16% |
| 116% to 125% | 9% | 18% |
| Above 125% | 10% | 20% |

Recovery of the estimated performance incentive shall be based on a 100% level of compliance as shown in the above table, and shall be subject to true-up in the subsequent annual recovery period.

- B. 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.

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

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:
 - 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 deemed 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.

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

- 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.
- 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.

ATTACHMENT A - Draft Proposed Electric Energy Efficiency Rules

- 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.

R14-2-2418. Waiver from the Provisions of this Article

- A.** The Commission may waive compliance with any provision of this Article for good cause.
- B.** Any affected utility may petition the Commission to waive its compliance with any provision of this Article for good cause.