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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

INITIAL COMMENTS OF TUCSON ELECTRIC POWER COMPANY AND UNS ELECTRIC, INC. ON PROPOSED ELECTRIC ENERGY EFFICIENCY RULES

Tucson Electric Power Company ("TEP"), and UNS Electric, Inc. ("UNS Electric"), collectively the "Companies", through undersigned counsel, hereby file initial comments on the Proposed Energy Efficiency Rules ("EE Rules"), submitted in this docket by the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") as follows:

I. GENERAL COMMENTS ON EE RULES.

The Companies have been active participants in the energy efficiency workshops that were conducted by Staff. The Companies believe that several key themes emerged from those workshops that are critical to the promulgation of energy efficiency rules that are meaningful, realistic, in the public interest and do not result in deleterious, unintended consequences. Those key themes include:

1. Targets should be established based upon supportive studies and analyses rather than on an arbitrary basis.
2. EE Rules should be implemented in a manner and at a time that will not conflict with any Federal energy efficiency legislation or rulemaking.
3. EE Rules should not interfere with or diminish an affiliated utility's ability to recover its fixed costs.

4. Recent history has shown that parties want to have a clear statement of the Commission's authority to implement rules and regulations such as the EE Rules. The parties also seek clarity in procedure and process.

The specific comments provided here are designed to better align the EE Rules to these themes and ensure that the Commission's efforts towards energy efficiency are in the public interest. The Companies reserve their rights to further comment on the EE Rules and any subsequent energy efficiency related rules as the parties submit their comments and additional drafts are published.

II. SPECIFIC COMMENTS ON EE RULES.

Set forth below are the Companies' comments on provisions of the EE Rule that need modification in order to be in the public interest. In support of their Comments, the Compnaies have attached a proposed revised version of the EE Rules (showing revisions in redline) as Attachment A.

A. <u>The Proposed Standards are Arbitrary.</u>

1. R14-2-2404(A) - 22% standard by 2020.

The Companies interpret paragraph R14-2-2404.A of the proposed rule to mean that the electricity sales of an affected utility must be reduced by 22% of 2005 sales levels by the year 2020. The Companies have red-lined this section to clarify that intent in Attachment A. The Company, along with many stakeholders, participated in the EE Rules workshops. During those workshops, a 22% energy efficiency standard by 2020 was never discussed. Further, the record does not contain any evidence, through testimony or analytical studies, to support a 22% standard from either a cost effectiveness standard or the market potential or technical feasibility of imposing this standard. Therefore, without further analysis, the Commission should not adopt such a standard.

2. R14-2-2409(C) - Load Management.

In the current draft of R14-2-2409(C), load management can contribute only up to 2% towards an affected utility's yearly required EE target. Again, the record does not address why load management should account for only 2% of a utility's yearly required EE target. Load management is a critical component of energy efficiency in that it allows the utility to better manage peak demand, which is very important especially during the summer in Arizona. Load management is also a very cost effective management tool for utilities to use in order to meet any energy efficiency goals. The Commission should not arbitrarily restrict this effective EE tool.

3. R14-2-2409(D) - Delivery System Improvements.

In R14-2-2404(D), the EE Rules state that improvement of a Utility's delivery system may *not* be counted toward meeting the standard. The Companies' believe that this type of energy efficiency improvement should be counted toward meeting the standard. Delivery system improvements provide increased energy efficiency and could prove to be a very cost-effective way to reduce the amount of energy consumed. Such improvements create the potential for a lower cost energy efficiency portfolio for our customers and should be encouraged. A blanket exclusion against the use of efficiency gains obtained from a utility's delivery system is counterproductive to the Commission's stated policy goals regarding EE and discourages an effective EE tool.

B. Modification and Newly Proposed Rules.

1. R14-2-2409(A), (B) and (C) - Reporting Requirements.

The EE Rules contain unduly burdensome reporting requirements. The Companies submit that a single annual Demand Side Management ("DSM") progress report included as part of the annual Implementation Plan is sufficient and should supersede all other DSM reporting requirements for affected utilities. As a result, R14-2-2409 (A) should read:

> "The annual Implementation Plan shall supersede all prior DSM filing requirements by each affected utility. The Implementation Plan filed by an affected utility and submitted to the Commission, shall include a detailed

> DSM progress report providing information for each Commission-approved DSM programs and shall include at least the following: …"

R14-2-2409 (B) and (C) should then be deleted as they are no longer necessary.

2. R14-2-2409 (E) - Reporting Requirements.

R14-2-2409(E)(1) would require a pie chart to be added to customer bills. The Companies believe that providing this information is an excellent idea and very beneficial to our customers. However, there is a strong possibility that in order to produce *individual* customer pie-charts as required in the proposed rules, affected utilities will likely need to invest a significant amount of time and money to modify the customer accounting and billing systems. As an alternative to the language provided in the proposed rules, the Companies propose new language that allows affected utilities to produce these pie-charts based on the 'average' residential or 'average' commercial customer usage. The Companies propose deleting the current version of R14-2-2409(E) and replacing it with the following language:

> "In the affected utility's July billings of each year following the filing of the Annual Implementation Plan, the utility shall provide customers 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 separate chart showing the total amount billed to an average residential and commercial customer and that portion of the average 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 chart depicting the total of all surcharges shown in the first pie chart, broken down by individual surcharge."

3. R14-2-2418 Fixed Cost Recovery Deficiency (New).

Successful implementation of any cost-effective DSM program will result in utility loss of revenue from reduced kWh sales until those reduced sales are reflected in the Utility's base rates. This occurs any time a variable, energy-based (per kWh) charge is used to collect fixed utility costs. The establishment of a timely and effective mechanism to recover shortfalls in the recovery of fixed costs is critical to the effective execution of an Energy Efficiency Standard. Without such a mechanism, the EE Standard would place an undue burden upon the utilities by reducing their approved revenue recovery without a requisite mechanism to recover this deficiency and compromising the utilities' legal right to recover its costs of providing service including an opportunity to recover a reasonable return on its investments. This is situation is exacerbated in the case of TEP. As the Commission is aware, TEP's rates are frozen until January 1, 2013 as part of a Commission approved settlement. See Decision No. 70628 (December 1, 2009).

Throughout the EE workshops, the Companies have proposed a very simple mechanism to solve this issue by recovering this Fixed Cost Recovery Deficiency due only to DSM/EE measures and only between rate cases. The Companies propose that this Fixed Cost Recovery Deficiency mechanism be adopted in this rulemaking and that following language be added to the document to do so.

(A) An affected utility shall file within 90 days of approval of this standard a Fixed Cost Recovery Rate supporting the per kWh cost recovery shortfall created by reduced kWh sales due to DSM/EE programs. This Fixed Cost Recovery Rate will be equal to the non-fuel-related variable rate approved by the ACC in the Utility's most recent rate case. The Fixed Cost Recovery Deficiency calculation shall multiply the Fixed Cost Recovery Rate by the cumulative kWh sales reductions due to DSM/EE since the Utility's last rate case. Both the Fixed Cost Recovery Rate and the cumulative DSM/EE sales reductions shall be reset coincident with the effective date of applicable changes to the Utility's rates.

(B) The affected utility shall recover the Fixed Cost Recovery Deficiency through the annual true-up of the affected utility's DSM adjustor mechanism.

C. **Clarification and Newly Proposed Definitions.**

1. **Definition 34: "Self Direction".**

The Companies believe the term "sufficient size" needs to be defined to determine who would be "qualifying customers" and suggest the same definition used in the REST rules. The Companies suggest that the definition be changed to:

> "Self-direction" means an option made available to qualifying customers that pay at least $25,000 annually from DSM Tariff funds for any number of related accounts, 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.

2. **Definition 35: "Societal Test".**

The Companies understand that many jurisdictions around the country have multiple interpretations and approaches for calculating benefit-cost tests and avoided costs, and these may or may not be directly applicable for use in Arizona. For example, the cost tests currently being used in Arizona are defined in the California Standard Practice manual, which is primarily designed to support energy policies in California. These policies influence the structure of the tests and how various inputs are interpreted. However, the California policies may not be consistent with Arizona state energy goals and policy. The Companies advocate that Arizona assess the various types of tests being used in various jurisdictions and develop a benefit cost test process that best represents state energy policy.

The Companies request that, as part of this proceeding, a parallel technical workshop process be held to adopt specific components to be included in the two major benefit cost tests (Total Resource Cost Test and Societal Test) and establishing a common methodology for estimating avoided costs. The Companies believe that the current definitions of the benefit-cost tests – which do not contain any specific avoided cost calculation methodology -- are insufficient to ensure comparable methodologies across the multiple Arizona utilities that are part of this proceeding. In addition, potential inconsistencies in methodologies between utilities could result in a significantly increased work load for the ACC to review and investigate multiple approaches to benefit-cost screening and avoided cost calculations.

The Companies also believe that avoided costs used in benefit-cost analysis should accurately reflect the full value of the DSM measures being analyzed. The Companies suggest that until a final determination is made through a technical workshop process, the definition for "Societal Test" be changed to:

> "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 includes non-market benefits to society, and excludes other costs. Marginal costs used in the Societal Test would also contain externality costs of power generation not captured by the market system. The list of potential adders would include for example;
>
> - The benefit of avoided environmental damage such as sulfur oxides, nitrogen oxides, volatile organic compounds, particulate matter at or below 10 micron diameter, and carbon.
> - The benefit of avoided transmission and distribution costs; and
> - The benefit of increased system reliability"

3. Definition 36: NEW "Avoided Cost Methodology".

The Companies are concerned with the absence of definition for determining the "Avoided Cost of Energy" and the "Avoided Cost of Capacity." These numbers are critical to the outcome of the program cost-effectiveness calculations and used in both the Total Resource Cost Test and the Societal Test. If not properly defined, there may be a lack of consistency between affected utilities when the Commission evaluates and approves cost-effective DSM Programs.

4. Definition 38: NEW "Total Resource Cost Test":

The Companies suggests simplifying this definition by eliminating the phrase "and carrying costs as a component of avoided capacity cost." The revised definition would state:

"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, and all incremental affected utility costs, but excludes incentives paid by affected utilities and non-market benefits to society."

5. "DSM measure".

The Companies request the elimination of the term "or DSM measure" from the entire Rule document. The Companies request that the Commission allow affected utilities to qualify DSM programs based on a "Program" cost effectiveness rather than an individual "Measure" cost effectiveness. Often an individual measure may be eliminated from a properly designed DSM program because the individual measure by itself does not quite pass the Societal Cost Test. However, as a group of individual items that work together, the entire program will meet the Societal Cost Test. This will allow more energy saving measures to be implemented while maintaining positive cost effectiveness.

6. R14-2-2408. Parity and Equity NEW item "C".

The Companies believe utilities must be allowed flexibility to shift approved DSM funds from low performing programs to high performing programs. The Companies believe the added flexibility will provide the following benefits to the Commission and to all affected utilities:

- Reduced time to prepare formal filings to request additional funding for each program;
- Reduced time for Staff review of formal filings to request additional funding;
- Reduced time for Staff to prepare Recommended Opinion and Order for formal filings;
- Reduced time for Commissioners to discuss formal filings during Open Meetings;
- Total dollars collected from DSM adjustor are utilized more effectively in response to program demand, thus allowing TEP to maintain a more consistent adjustor amount; and

- Continuation of very successful programs without undue limitation will increase MW and MWH savings and result in greater environmental impacts.

The Companies suggest the following provision be added under "Parity and Equity":

> "An affected utility shall be allowed to shift funds between programs of all customer classes, when necessary, in order to maximize the benefit of a high performing program and minimize the cost of a low performing program, thereby obtaining the maximum benefit of funds collected from all customer classes."

III. CONCLUSION.

The Companies support the Commission's efforts to promote EE through programs that produce the desired results in a manner that will not harm the Companies' customers or the Companies themselves. The Companies believe their proposed revisions will result in effective EE programs that provide utilities the ability to recover their costs, including an opportunity to earn a reasonable rate of return on their investments, while still ensuring just and reasonable rates for the Companies' customers. Thus, the Companies request that the Commission consider these comments, along with the revised version of the proposed EE Rules set forth in Attachment A. The Companies believe that this approach will strengthen the long-term viability of the rules and are in the public interest.

RESPECTFULLY SUBMITTED this 16th day of November 2009.

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ATTACHMENT

"A"

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

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.

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

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~~. Incentives and measurement, evaluation and research should not be included in the cost of DSM when evaluating program net benefits for the purpose of calculating affected utility performance incentives.~~

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 (an entity~~ that pay at least $25,000 annually into~~from~~ DSM Tariff funds ~~of lest~~

~~$25,000 annually~~ for any number of related accounts~~)~~, 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.

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~~ includes non-market benefits to society, and ~~excluding~~ excludes other costs. Marginal costs used in the Societal Test would also contain externality costs of power generation not captured by the market system. The list of potential adders would include for example;

- The benefit of avoided environmental damage such as sulfur oxides, nitrogen oxides, volatile organic compounds, particulate matter at or below 10 micron diameter, and carbon.
- The benefit of avoided transmission and distribution costs
- The benefit of increased system reliability

~~carrying costs as part of the avoided capacity cost.~~

36. "Avoided Cost Methodology" SUGGEST THE ADDITION OF A DETAILED DESCRIPTION ON METHODOLOGY REQUIRED BY THE ACC FOR DETERMINATION OF AVOIDED COST OF ENERGY AND AVOIDED COST OF CAPACITY TO MAINTAIN CONSISTENCY WITH ALL AFFECTED UTILITIES.

~~36~~37. "Staff" means individuals working for the Commission's Utilities Division, whether as employees or through contract.

~~37~~38. "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~~ excludes incentives paid by affected utilities and non-market benefits to society.

R14-2-2402. Applicability

Draft Proposed Electric Energy Efficiency Rules

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:

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 ~~22~~15% ~~below~~ of 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~~15% reduction.

C. An affected utility's reductions in sales resulting from demand response and load management may comprise up to 4~~2~~ percentage points of the ~~22~~15% 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:

CALENDAR YEAR	ENERGY EFFICIENCY STANDARD (Cumulative Reduction from 2005 Retail Sales)
2010	1.00~~.25~~%
2011	2.00~~2.5~~%
2012	3.50~~4.00~~%
2013	5.00~~6.00~~%
2014	6.50~~8.00~~%
2015	8.00~~10.00~~%
2016	9.50~~12.50~~%
2017	11.00~~15.00~~%
2018	12.50~~17.50~~%
2019	14.00~~20.00~~%
2020	15.00~~22.00~~%

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.

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~~.

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 lifetime 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).

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~~ consider DSM funds collected from residential customers and from non-residential customers proportionately to those customer classes to the extent practicable.

C. An affected utility shall be allowed to shift funds between programs of all customer classes, when necessary, in order to maximize the benefit of a high performing program and minimize the cost of a low performing program, thereby obtaining the maximum benefit of funds collected from all customer classes.

D~~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.

E~~D~~. DSM funds collected by an affected utility shall be used, to the extent practicable, to benefit that affected utility's customers.

F~~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. ~~In the annual~~The annual Implementation plan~~By March 1 of each year,~~ shall supersede all prior DSM filing requirements by each affected utility. The Implementation Plan filed by an affected utility ~~shall~~ and submitted to the Commission, shall include a detailed DSM progress report providing information for each of the ~~affected utility's~~ Commission-approved DSM programs ~~and DSM measures~~ and ~~including~~ shall include 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~~MW, ~~kWh~~MWh, therms, and ~~BTUs~~Therms, 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.~~

B~~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.

C~~D~~. ~~An affected utility may request within its implementation plan that t~~These reporting requirements shall supersede specific existing DSM reporting requirements for an affected utility.

D~~E~~. In the affected utility's ~~March and September~~July billings of each year following the filing of the Annual Implementation Plan, the utility shall provide ~~each~~ customers 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~~ separate chart showing the total amount billed to ~~the~~ an average residential and commercial customer and that portion of the ~~total~~ average 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 annual Implementation Plan~~DSM progress report~~ filed under R14-2-2405~~9~~ 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.

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:

Level of Compliance with Annual Energy Efficiency Standard Achieved (Excluding Net Benefits from Demand Response)	**Performance Incentive as a Percentage of Net Benefits from Energy Efficiency Programs**	**Performance Incentive Capped at a Percentage of Program Costs**
85% to 95%	6%	12%
96% to 105%	7%	14%
106% to 115%	8%	16%
116% to 125%	9%	18%
Above125%	10%	20%

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 as defined by the ACC Technical Working Group 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 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.

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~~.

R14-2-2418 Fixed Cost Recovery Shortfall

Successful implementation of any cost-effective DSM program will result in utility loss of revenue from reduced kWh or therm sales until those reduced sales are reflected in the Utility's base rates. This occurs any time a variable, energy-based (per kWh or per therm) charge is used to collect historical fixed utility costs. The establishment of a timely and effective mechanism to recover shortfalls in the recovery of fixed costs is critical an effective execution of an Energy Efficiency Standard.

(A) An affected utility shall file within 90 days of approval of this standard a Fixed Cost Recovery Rate supporting the per kWh cost recovery shortfall created by reduced kWh sales due to DSM/EE programs. This Fixed Cost Recovery Rate will be equal to the non-fuel-related variable rate approved by the ACC in the Utility's most recent rate case. The Fixed Cost Recovery calculation shall multiply the Fixed Cost Recovery Rate by the cumulative kWh sales reductions due to DSM/EE since the Utility's last rate case. Both the Fixed Cost Recovery Rate and the cumulative DSM/EE sales reductions shall be reset coincident with the effective date of applicable changes to the Utility's rates.

(B) The affected utility shall recover the Fixed Cost Recovery Shortfall through the annual true-up of the affected utility's DSM adjustor mechanism,