OPEN MEETING

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MEMORANDUM

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AZ CORP COMMISSION
DOCKET CONTROL

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TO: THE COMMISSION

FROM: Utilities Division

DATE: December 4, 2009

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

On March 14, 2003, Commission Decision No. 65743 ("Track B") ordered Staff to facilitate a workshop process to explore the development of a demand-side management ("DSM") policy. Many workshops were held from October 2003 through November 2004.

On February 7, 2005, Staff filed its Staff Report on Demand-Side Management Policy.[1] On April 15, 2005, Staff converted the DSM Policy into its First Draft of Proposed DSM Rules and filed the draft proposed rules in Docket No. RE-00000C-05-0230. Interested parties provided written comments.

On June 19, 2008, a docket on incentives for utilities was opened (Docket Nos. E-00000J-08-0314 and G-00000C-08-0314) following a request by Commissioner Mundell in a letter dated May 9, 2008. In a January 9, 2009 letter, Chairman Mayes proposed that an energy efficiency workshop be held and that comments be filed in the incentives docket. Subsequently, the Commission directed Staff to convene a series of workshops and technical working group meetings on energy efficiency.

On January 30, 2009, Staff issued a series of energy efficiency questions with responses requested by February 20, 2009. The categories of questions included existing energy efficiency programs and measures, new energy efficiency programs and measures, regulatory elements, societal goals, impacts on utilities, and incentives and funding.

The Commission held workshops on March 6, 2009; March 27, 2009; and May 6, 2009, to discuss energy efficiency and aligning utility incentives with energy efficiency goals. Technical working group meetings on cost recovery, appropriate ramp-up, and incentives were held on April 17, 2009. Another technical working group meeting, on a baseline for an energy efficiency standard and on bill impacts, was held on April 30, 2009. Five more technical working group meetings were held in May 2009. Written comments were received from interested parties from February through April of 2009. Interested parties have included representatives from utilities, customer groups, energy efficiency advocates, and others.

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[1] Docket Nos. E-00000A-02-0051, E-01345A-01-0822, E-00000A-01-0630, E-01933A-02-0069.

From May through September of 2009, written comments were received from Arizona Public Service Company; EnerNOC, Inc.; Navopache Electric Cooperative, Inc.; Southwest Energy Efficiency Project; Southwest Gas Corporation; Tucson Electric Power Company; USE Electric, Inc.; UNS Gas, Inc.; Western Resource Advocates; and numerous energy consumers.

On September 4, 2009, Staff requested that a rulemaking docket on Electric Energy Efficiency Rules be opened (RE-00000C-09-0427). Staff updated the draft rules that had been filed in RE-00000C-05-0230, modified them to add an Energy Efficiency standard and provision for incentives, and distributed the draft proposed Electric Energy Efficiency Standards rules for comment on October 30, 2009.

Comments were received from Arizona Investment Council; Arizona Municipal Power Users' Association; Arizona Public Service Company; Arizonans for Electric Choice and Competition and Freeport-McMoran Copper & Gold Inc.; Electric Cooperatives;[2] EnerNOC, Inc.; Morenci Water & Electric Company; Natural Resources Defense Council; Sierra Club-Grand Canyon Chapter; The Ormond Group, L.L.C.; Southwest Energy Efficiency Project; Southwest Solar Technologies, Inc.; Tucson Electric Power Company and UNS Electric, Inc.; and Western Resource Advocates. Some of the comments have been incorporated into the proposed Electric Energy Efficiency Standards.

Staff recommends that the Commission direct Staff to file, by December 24, 2009, with the office of the Secretary of State, for publication in the *Arizona Administrative Register* no later than January 15, 2010, (1) a Notice of Rulemaking Docket Opening and (2) a Notice of Proposed Rulemaking.

Based on consultation with the Hearing Division, Staff further recommends that the Commission direct the Hearing Division to hold an oral proceeding to receive public comment on the Notice of Proposed Rulemaking on March 5, 2010, at 10:00 a.m. or as soon as practicable thereafter, in Hearing Room No. 1 at the Commission's offices in Phoenix, Arizona.

Staff further recommends that interested parties be requested to provide initial comments concerning the Notice of Proposed Rulemaking by filing written comments with the Commission's Docket Control by February 16, 2010; be requested to provide comments in response to other interested parties' comments by filing written comments with the Commission's Docket Control by February 23, 2010; and be permitted to provide oral comments at the proceeding to be held on March 5, 2010.

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[2] Grand Canyon State Electric Cooperative Association filed on behalf of Duncan Valley Electric Cooperative, Inc.; Graham County Electric Cooperative, Inc.; Mohave Electric Cooperative, Inc.; Navopache Electric Cooperative, Inc.; Trico Electric Cooperative, Inc.; and Sulphur Springs Valley Electric Cooperative, Inc.

Staff further recommends that the Commission establish additional procedural deadlines and requirements as may be necessary consistent with the Administrative Procedures Act and prior Commission rulemaking procedures.

Steven M. Olea
Director
Utilities Division

SMO:BEK:lhm\MAS

ORIGINATOR: Barbara Keene

BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Chairman
GARY PIERCE
Commissioner
PAUL NEWMAN
Commissioner
SANDRA D. KENNEDY
Commissioner
BOB STUMP
Commissioner

IN THE MATTER OF THE NOTICE OF PROPOSED RULEMAKING ON ELECTRIC ENERGY EFFICIENCY	DOCKET NO. RE-00000C-09-0427 DECISION NO. _____ ORDER

Open Meeting
December 15 and 16, 2009
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On March 14, 2003, Commission Decision No. 65743 ("Track B") ordered Staff to facilitate a workshop process to explore the development of a demand-side management ("DSM") policy. Many workshops were held from October 2003 through November 2004.

2. On February 7, 2005, Staff filed its Staff Report on Demand-Side Management Policy.[1] On April 15, 2005, Staff converted the DSM Policy into its First Draft of Proposed DSM Rules and filed the draft proposed rules in Docket No. RE-00000C-05-0230. Interested parties provided written comments.

3. On June 19, 2008, a docket on incentives for utilities was opened (Docket Nos. E-0000J-08-0314 and G-00000C-08-0314) following a request by Commissioner Mundell in a letter dated May 9, 2008. In a January 9, 2009 letter, Chairman Mayes proposed that an energy

[1] Docket Nos. E-00000A-02-0051, E-01345A-01-0822, E-00000A-01-0630, E-01933A-02-0069.

efficiency workshop be held and that comments be filed in the incentives docket. Subsequently, the Commission directed Staff to convene a series of workshops and technical working group meetings on energy efficiency.

4. On January 30, 2009, Staff issued a series of energy efficiency questions with responses requested by February 20, 2009. The categories of questions included existing energy efficiency programs and measures, new energy efficiency programs and measures, regulatory elements, societal goals, impacts on utilities, and incentives and funding.

5. The Commission held workshops on March 6, 2009; March 27, 2009; and May 6, 2009, to discuss energy efficiency and aligning utility incentives with energy efficiency goals. Technical working group meetings on cost recovery, appropriate ramp-up, and incentives were held on April 17, 2009. Another technical working group meeting, on a baseline for an energy efficiency standard and on bill impacts, was held on April 30, 2009. Five more technical working group meetings were held in May 2009. Written comments were received from interested parties from February through April of 2009. Interested parties have included representatives from utilities, customer groups, energy efficiency advocates, and others.

6. From May through September of 2009, written comments were received from Arizona Public Service Company; EnerNOC, Inc.; Navopache Electric Cooperative, Inc.; Southwest Energy Efficiency Project; Southwest Gas Corporation; Tucson Electric Power Company; USE Electric, Inc.; UNS Gas, Inc.; Western Resource Advocates; and numerous energy consumers.

7. On September 4, 2009, Staff requested that a rulemaking docket on Electric Energy Efficiency Rules be opened (RE-00000C-09-0427). Staff updated the draft rules that had been filed in RE-00000C-05-0230, modified them to add an Energy Efficiency standard and provision for incentives, and distributed the draft proposed Electric Energy Efficiency Standards rules for comment on October 30, 2009.

8. Comments were received from Arizona Investment Council; Arizona Municipal Power Users' Association; Arizona Public Service Company; Arizonans for Electric Choice and

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Competition and Freeport-McMoran Copper & Gold Inc.; Electric Cooperatives;[2] EnerNOC, Inc.; Morenci Water & Electric Company; Natural Resources Defense Council; Sierra Club-Grand Canyon Chapter; The Ormond Group, L.L.C.; Southwest Energy Efficiency Project; Southwest Solar Technologies, Inc.; Tucson Electric Power Company and UNS Electric, Inc.; and Western Resource Advocates. Some of the comments have been incorporated into the proposed Electric Energy Efficiency Standards.

9. Staff has recommended that the Commission direct Staff to file, by December 24, 2009, with the office of the Secretary of State, for publication in the Arizona Administrative Register no later than January 15, 2010, (1) a Notice of Rulemaking Docket Opening and (2) a Notice of Proposed Rulemaking.

10. Based on consultation with the Hearing Division, Staff has further recommended that the Commission direct the Hearing Division to hold an oral proceeding to receive public comment on the Notice of Proposed Rulemaking on March 5, 2010, at 10:00 a.m. or as soon as practicable thereafter, in Hearing Room No. 1 at the Commission's offices in Phoenix, Arizona.

11. Staff has further recommended that interested parties be requested to provide initial comments concerning the Notice of Proposed Rulemaking by filing written comments with the Commission's Docket Control by February 16, 2010; be requested to provide comments in response to other interested parties' comments by filing written comments with the Commission's Docket Control by February 23, 2010; and be permitted to provide oral comments at the proceeding to be held on March 5, 2010.

12. Staff has further recommended that the Commission establish additional procedural deadlines and requirements as may be necessary consistent with the Administrative Procedures Act and prior Commission rulemaking procedures.

CONCLUSIONS OF LAW

1. Pursuant to Article XV of the Arizona Constitution and A.R.S. Title 40 generally, the Commission has jurisdiction over the matters raised herein.

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[2] Grand Canyon State Electric Cooperative Association filed on behalf of Duncan Valley Electric Cooperative, Inc.; Graham County Electric Cooperative, Inc.; Mohave Electric Cooperative, Inc.; Navopache Electric Cooperative, Inc.; Trico Electric Cooperative, Inc.; and Sulphur Springs Valley Electric Cooperative, Inc.

2. It is in the public interest to adopt Staff's recommendations.

ORDER

IT IS THEREFORE ORDERED that the Utilities Division shall prepare and file, by December 24, 2009, with the office of the Secretary of State, for publication in the *Arizona Administrative Register* no later than January 15, 2010, (1) a Notice of Rulemaking Docket Opening and (2) a Notice of Proposed Rulemaking that includes the text of the rules as included in Exhibit A, attached hereto and incorporated herein by reference.

IT IS FURTHER ORDERED that the Hearing Division hold an oral proceeding to receive public comment on the Notice of Proposed Rulemaking on March 5, 2010, at 10:00 a.m. or as soon as practicable thereafter, in Hearing Room No. 1 at the Commission's offices in Phoenix, Arizona.

IT IS FURTHER ORDERED that interested parties be requested to provide initial comments concerning the Notice of Proposed Rulemaking by filing written comments with the Commission's Docket Control by February 16, 2010; be requested to provide comments in response to other interested parties' comments by filing written comments with the Commission's Docket Control by February 23, 2010; and be permitted to provide oral comments at the proceeding to be held on March 5, 2010.

IT IS FURTHER ORDERED that the Utilities Division shall ensure that the Preamble to the Notice of Proposed Rulemaking conforms with the requirements of A.R.S. § 41-1001(14) and provides notice of the date, time, and location of the oral proceeding required herein.

IT IS FURTHER ORDERED that the Utilities Division shall ensure that the Preamble to the Notice of Proposed Rulemaking states that (1) written comments on the Notice of Proposed Rulemaking should include a reference to Docket No. RE-00000C-09-0427; (2) initial written comments should be filed with the Commission's Docket Control by February 16, 2010; (3) written comments in response to other interested parties' comments should be filed with the Commission's Docket Control by February 23, 2010; and (4) oral comments may be provided at the proceeding to be held on March 5, 2010.

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IT IS FURTHER ORDERED that the Utilities Division shall ensure that any written comments filed with the Utilities Division rather than the Commission's Docket Control are filed with the Commission's Docket Control.

IT IS FURTHER ORDERED that the Utilities Division shall, by January 15, 2010, file with the Commission's Docket Control an Economic, Small Business, and Consumer Impact Statement that addresses the economic impacts of the recommended changes to the rules as included in Exhibit A and conforms to the requirements of A.R.S. §41-1057(2).

IT IS FURTHER ORDERED that the Utilities Division shall, on or before March 2, 2010, file with the Commission's Docket Control a document including (1) a summary of any initial written comments filed by interested persons between the effective date of this Order and February 23, 2010, and (2) the Utilities Division's responses to those comments.

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IT IS FURTHER ORDERED that the Utilities Division shall, by March 30, 2010, file with the Commission's Docket Control a document including (1) a summary of all written comments filed by interested persons after February 23, 2010, and and oral comments received at the oral proceeding in this matter, (2) the Utilities Division's responses to those comments, and (3) a revised Economic, Small Business, and Consumer Impact Statement or a memorandum explaining why no revision (or revisions as the case may be) of the prior Economic, Small Business, and Consumer Impact Statement is necessary.

IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN COMMISSIONER

COMMISSIONER COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____day of _____, 2009.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:BEK:lhm\MAS

SERVICE LIST FOR PROPOSED RULEMAKING ON ELECTRIC ENERGY EFFICIENCY: DOCKET NO. RE-00000C-09-0427

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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

ARTICLE 24. ELECTRIC ENERGY EFFICIENCY STANDARDS

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, 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.
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 reduction in retail energy sales, in percentage of kWh, required to be achieved through an affected utility's approved 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 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 measures, relative to baseline.

24. "Independent program administrator" means an impartial third party employed to provide objective oversight of energy efficiency programs.
25. "kW" means kilowatt.
26. "kWh" means kilowatt-hour.
27. "Leveraging" means combining resources to more effectively achieve an energy efficiency goal, or to achieve greater energy efficiency savings, than would be achieved without combining resources.
28. "Load management" means actions taken or sponsored by an affected utility to reduce peak demands or improve system operating efficiency, such as direct control of customer demands through affected-utility-initiated interruption or cycling, thermal storage, or educational campaigns to encourage customers to shift loads.
29. "Low income customer" means a customer with a below average level of household income, as defined in an affected utility's Commission-approved DSM program description.
30. "Market transformation" means strategic efforts to induce lasting structural or behavioral changes in the market that result in increased energy efficiency.
31. "Net benefits" means the incremental benefits resulting from DSM minus the incremental costs of DSM.
32. "Non-market benefits" means improvements in societal welfare that are not bought or sold.
33. "Program costs" means the expenses incurred by an affected utility as a result of developing, marketing, implementing, administering, and evaluating Commission-approved DSM programs.
34. "Self-direction" means an option made available to qualifying customers of sufficient size, in which the amount of money paid by each qualifying customer towards DSM costs is tracked for the customer and made available for use by the customer for approved DSM investments upon application by the customer.
35. "Societal Test" means a cost-effectiveness test of the net benefits of DSM programs that starts with the Total Resource Cost Test, but including non-market benefits to society, and excluding carrying costs as part of the avoided capacity cost.
36. "Staff" means individuals working for the Commission's Utilities Division, whether as employees or through contract.
37. "Total Resource Cost Test" means a cost-effectiveness test that measures the net benefits of a DSM program as a resource option, including incremental measure costs, incremental affected

utility costs, and carrying costs as a component of avoided capacity cost, but excluding incentives paid by affected utilities and non-market benefits to society.

R14-2-2402. Applicability

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

R14-2-2403. Goals and Objectives

A. An affected utility shall design each DSM 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 program:

1. Whether the DSM program will achieve cost-effective energy savings and peak demand reductions;
2. Whether the 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 program and allow the DSM program to achieve its targeted goal.

C. An affected utility shall:

1. Offer 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. An affected utility shall, through DSM energy efficiency programs, achieve annual energy savings of at least 2% of the total retail sales of the previous calendar year measured in kWh for the years 2011 through 2015, and achieve annual energy savings of at least 1.75% of the total retail sales of the previous calendar year measured in kWh for the years 2016 through 2020.

B. An affected utility's reductions in peak load resulting from demand response and load management may not be counted toward meeting the standard.

C. 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 energy efficiency program having at least the same level of efficiency.

R14-2-2405. Implementation Plans

A. On June 1 of each odd 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 two calendar years, except that the initial implementation plan shall be filed within 30 days of the effective date of these rules.

B. The implementation plan shall include the following information:

1. Except for the initial implementation plan, a description of the affected utility's compliance with the requirements of these rules for the previous calendar year;
2. Except that the initial implementation plan shall describe only the next calendar year, a description of how the affected utility intends to comply with this Article for the next two calendar years, including an explanation of any modification to the rates of an existing DSM adjustment mechanism or tariff that the affected utility believes is necessary;
3. Except that the initial implementation plan shall describe only the next calendar year, a description of each DSM program to be newly implemented or continued in the next two calendar years and an estimate of the annual kWh and kW savings projected to be obtained through each 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 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 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 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 benefits 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 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 by payment through a non-bypassable mechanism, unless a customer class is specifically exempted by Commission order.

R14-2-2409. Reporting Requirements

A. By March 1 of each year, an affected utility shall submit to the Commission, in a Commission established docket for that year, a DSM progress report providing information for each of the affected utility's Commission-approved DSM programs 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;

k. A description of any modifications proposed for the following year; and

l. Whether the affected utility proposes to terminate the DSM program or DSM measure and the proposed date of termination.

B. By September 1 of each year, an affected utility shall file a status report including a tabular summary showing the following for each current Commission-approved DSM program and DSM measure of the affected utility:

1. Semi-annual expenditures compared to annual budget, and
2. Participation rates.

C. An affected utility shall file each report required by this Section with Docket Control, where it will be available to the public, and shall make each such report available to the public upon request.

D. An affected utility may request within its implementation plan that these reporting requirements supersede specific existing DSM reporting requirements.

E. In the affected utility's March and September billings of each year the utility shall provide each customer with a summary of the total billed electricity for the last six months of the previous calendar year and the first six months of the current calendar year, respectively. The summary shall include:

1. A pie chart showing the total amount billed to the customer and that portion of the total bill that accounts for all surcharges, such as, but not limited to, energy efficiency, renewable energy, demand side management, fuel, and purchased power.
2. A second pie chart depicting the total of all surcharges shown in the first pie chart, broken down by individual surcharge.

R14-2-2410. Cost Recovery

A. An affected utility may recover the costs that it incurs in planning, designing, implementing, and evaluating a DSM program or DSM measure if the DSM program or DSM measure is all of the following:

1. Approved by the Commission before it is implemented;
2. Implemented in accordance with a Commission-approved program proposal or implementation plan; and

3. Monitored and evaluated for cost-effectiveness.

B. An affected utility shall monitor and evaluate each DSM program and DSM measure, as provided in R14-2-2415, to determine whether the DSM program or DSM measure is cost-effective and otherwise meets expectations.

C. If an affected utility determines that a DSM program or DSM measure is not cost-effective or otherwise does not meet expectations, the affected utility shall include in its annual DSM progress report filed under R14-2-2409 a proposal to modify or terminate the DSM program or DSM measure.

D. An affected utility shall recover its DSM costs concurrently, on an annual basis, with the spending for a DSM program or DSM measure, unless the Commission orders otherwise.

E. An affected utility may recover costs from DSM funds for any of the following items, if the expenditures will enhance DSM:

1. Incremental labor attributable to DSM development,
2. A market study,
3. A research and development project such as applied technology assessment,
4. Consortium membership, or
5. Another item that is difficult to allocate to an individual DSM program.

F. The Commission may impose a limit on the amount of DSM funds that may be used for the items in subsection (E).

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**
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 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 estimated in physical terms when practical but may be expressed qualitatively. An affected utility, Staff, or any party may propose monetized benefits and costs if supported by appropriate documentation or analyses.

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 programs, unless otherwise ordered by the Commission.

C. An affected utility may use DSM funds collected from electric customers for thermal envelope improvements.

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

A. An affected utility shall monitor and evaluate each DSM program and DSM measure to:

1. Ensure compliance with the cost-effectiveness requirements of R14-2-2412;
2. Determine participation rates, energy savings, and demand reductions;
3. Assess the implementation process for the DSM program or DSM measure;
4. Obtain information on whether to continue, modify, or terminate a DSM program or DSM measure; and
5. Determine the persistence and reliability of the affected utility's DSM.

B. An affected utility may conduct evaluation and research, such as market studies, market research, and other technical research, for program planning, product development, and program improvement.

R14-2-2416. Program Administration and Implementation

A. An affected utility may use an energy service company or other external resource to implement a DSM program or DSM measure.

B. The Commission may, at its discretion, establish independent program administrators who would be subject to the relevant requirements of these rules.

R14-2-2417. Leveraging and Cooperation

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

B. An affected utility shall participate in a DSM program or DSM measure with a natural gas utility when doing so is practicable and if doing so will increase the effectiveness or cost-effectiveness of a DSM program or DSM measure.