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1200 W. Washington St.
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FROM: David Berry
Senior Policy Advisor

DATE: December 9, 2009

SUBJECT: Comments on Proposed Energy Efficiency Rules (Docket No. RE-00000C-09-0427)

Western Resource Advocates (WRA) hereby submits its comments on Staff's draft energy efficiency rule docketed on December 4, 2009.

Section R14-2-2404(A). As written, the standard requires annual new savings of 2% of retail sales in the early years and annual new savings of 1.75% in later years. The utilities will need to ramp up their energy efficiency programs in the early years, so the percentage targets should be smaller in earlier years. To meet the proposed goals, the utilities will have to upgrade their delivery strategies as indicated in WRA's November 2009 comments in this docket.

Rewrite R14-2-2404(A) as follows: *An affected utility shall, through DSM energy efficiency programs, achieve additional annual energy savings, as a percentage of the previous year's total retail MWh sales, of 1.25% in 2011, 1.5% in 2012, 1.75% in 2013, 2% per year in 2014 through 2017, and 2.5% per year thereafter.*

Section R14-2-2404, generally. It is crucial to recognize the progress already made by some utilities and not "penalize" them for early adoption of energy efficiency programs. WRA recommends that utilities be able to count MWh savings from programs implemented before the effective date of the rule but after 2004 toward meeting the energy efficiency standard, up to a cap. The cap should be 3% of the average annual retail sales from 2005 through the effective date of the rule.

Add new paragraph R14-2-2404(B) as follows: *An affected utility's MWh reductions in sales resulting from Commission-approved 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 in any year, provided, however, that the total MWh so counted not exceed 3% of the average annual retail sales from 2005 through the effective date of this rule.*

Section R14-2-2411(A). As currently written, this provision could come back to haunt the Commission. By locking into a performance incentive in the rule, it will be difficult for the incentive to evolve based on experience and as conditions change over time. Also, the net benefits and program costs used to determine the proposed performance incentive are unknown until a utility provides projections or estimates of each of the factors used in the performance incentive formula. Further, the net benefits and program costs could vary greatly across utilities. Therefore, it is, at present, impossible to tell whether the performance incentive is too generous or ineffective.

Rewrite section 2411(A) as follows: *In its implementation plans required by section R14-2-2405, an affected utility may propose for Commission review an incentive for superior performance relative to the standard set forth in R14-2-2404. The Commission may also consider performance incentives in a general rate case.*

Add Section R14-2-2405(B)(7): *If desired by the affected utility, a proposed performance incentive as described in R14-2-2411(A).*