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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission  
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IN THE MATTER OF THE NOTICE OF PROPOSED RULEMAKING ON ELECTRIC ENERGY EFFICIENCY

Docket No. RE-00000C-09-0427

COMMENTS OF FREEPORT-MCMORAN COPPER & GOLD INC. AND ARIZONANS FOR ELECTRIC CHOICE AND COMPETITION REGARDING THE PROPOSED ORDER FOR PROPOSED RULEMAKING ON ELECTRIC ENERGY EFFICIENCY

Freeport-McMoRan Copper & Gold Inc. and Arizonans for Electric Choice and Competition (hereafter collectively "AECC") hereby submit the following Comments concerning the proposed Electric Energy Efficiency Standards ("Standards").

I. General Comments

A. Need To Consider Annual Rate Impact

The calculation of the benefit from an investment in DSM necessarily requires the projection of energy savings over a period of time, typically the life of the investment. Similarly, a supply-side resource produces kWh over the life of the supply-side investment. However, in contrast to the recovery of supply-side capital costs, which occurs over the life of the investment, DSM capital costs are typically expensed and recovered at the front-end of the investment. For this reason, even cost-effective DSM investments can create significant rate impacts. AECC recommends that the Commission adopt a "circuit breaker" or maximum annual rate increase that can be adopted to implement the Standards. AECC proposes that the "circuit breaker" be set no greater than 1.0 percent annually.

1 B. Need for Mandatory Time of Use Rates

2 Before committing to the funding required to meet the proposed standards, utilities  
3 should be required to file, and the Commission should adopt, mandatory time-of-use rates  
4 for all customer classes. From a public policy perspective, it is inconsistent to impose  
5 rigorous DSM standards without also committing to send customers proper price signals.

6 **II. Specific Comments**

7 A. Demand Response and Load Management

8 R14-2-2404(B). Demand response and load management programs can make a  
9 valuable contribution to reducing utility peak demands. AECC recommends that there be  
10 an opportunity for demand response and load management to contribute to meeting the  
11 Energy Efficiency Standards.

12 B. Customer Exemption

13 R14-2-2408(C) and (E). AECC recommends the following change: Insert  
14 "customer or" prior to "customer class" in the second line of Paragraphs (C) and (E). This  
15 change will accommodate an individual customer exemption pursuant to Commission  
16 Decision No. 67744 in Docket No. E-01345A-03-0437. This Decision provides that a  
17 customer with a single-site load greater than 20 MW that can demonstrate an active DSM  
18 program can petition the Commission for an exemption from the DSM adjutor.

19 C. Independent Program Administrators

20 R14-2-2416(B). AECC is concerned that this provision, which permits the  
21 establishment of independent program administrators, may unduly increase program  
22 administrative costs, thereby reducing the funds that are available to make DSM  
23 investments.

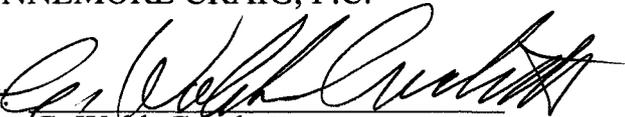
24 D. Self-Direction

25 AECC proposes to add a section to the Standards incorporating the self-direction  
26 provisions that are included in the APS Settlement Agreement filed June 12, 2009 in

1 Docket No. 01345A-08-0172.

2 RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of December 2009.

3 FENNEMORE CRAIG, P.C.

4 By: 

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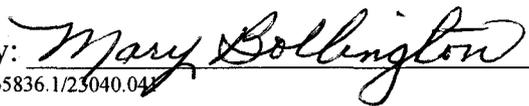
11 ORIGINAL and 13 COPIES of the foregoing  
12 FILED this 11<sup>th</sup> day of December 2009 with:

13 Docket Control  
14 ARIZONA CORPORATION COMMISSION  
15 1200 West Washington  
16 Phoenix, Arizona 85007-2927

17 COPY of the foregoing was HAND-DELIVERED  
18 this 11<sup>th</sup> day of December 2009 to:

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