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MEMORANDUM  
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TO: Docket Control

FROM: Maureen A. Scott  
Senior Staff Attorney  
Legal Division

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2010 AUG 13 P 12:53

ACC CORP COMMISSION  
DOCKET CONTROL

DATE: August 13, 2010

RE: NOTICE OF SUBMISSION OF PROPOSED ELECTRIC ENERGY  
EFFICIENCY RULES RULEMAKING PACKET WITH ATTORNEY  
GENERAL'S OFFICE (DOCKET NO. RE-00000C-09-0427)

Pursuant to A.R.S. § 41-1044,<sup>1</sup> the rulemaking packet in the above referenced matter has been forwarded to the Attorney General's office. The following documents were included in the packet:

1. Letter to Attorney General
2. ACC Decision No. 71819
3. Notice of Final Rulemaking
4. Economic Impact Statement
5. Agency Certificate
6. Form for Attorney General Approval
7. Agency Receipt

All documents included are attached except for a copy of Decision No. 71819.

Arizona Corporation Commission  
DOCKETED  
AUG 13 2010

DOCKETED BY 

<sup>1</sup> A.R.S. § 41-1044 requires the Attorney General to review rules that are exempt pursuant to A.R.S. § 41-1057 as to form and whether the rules are clear, concise, and understandable; within the power of the agency to make; within the enacted legislative standards; and made in compliance with appropriate procedures. Arizona Corporation Commission rules promulgated pursuant to the Commission's exclusive constitutional rulemaking authority need not be submitted to the Attorney General for certification. *Corbin v. Arizona Corp. Comm'n*, 174 Ariz. 216, 219 (App. 1992); *Phelps Dodge Corp. v. AEPCCO*, 207 Ariz. 95, 115 (App. 2004).

**COMMISSIONERS**  
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ERNEST G. JOHNSON  
Executive Director

## ARIZONA CORPORATION COMMISSION

August 12, 2010

Attorney General Terry Goddard  
Office of the Attorney General  
1275 W. Washington Street  
Phoenix, Arizona 85007

ATTENTION: Mark Wilson

RE: Arizona Corporation Commission  
Electric Energy Efficiency Rules, Docket No. RE-00000C-09-0427

Dear Attorney General Goddard:

Pursuant to A.R.S. § 41-1044,<sup>1</sup> the Arizona Corporation Commission ("Commission") is pleased to submit the enclosed rulemaking packet ("Rules Package"). The Rules Package consists of:

- Commission Decision No. 71819, authorizing filing of Notice of Final Rulemaking
- Agency Receipt
- Agency Certificate
- Attorney General's Approval Form
- Economic, Small Business, and Consumer Impact Statement
- Notice of Final Rulemaking (hard copy and CD)

The final rules adopted by the Commission create a new Article 24, "Electric Energy Efficiency Standards," in Title 14, Chapter 2 of the Arizona Administrative Code ("A.A.C.") ("EEE Rules"). The new rules are applicable to Class A electric utilities and require them to undertake electric energy efficiency and demand-side management ("DSM") programs and measures to achieve cumulative annual energy efficiency savings beginning in 2011. The rules' purpose of achieving energy savings through cost-effective energy efficiency programs is designed to ensure reliable electric service at reasonable rates and costs.

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<sup>1</sup> A.R.S. § 41-1044 requires the Attorney General to review rules that are exempt pursuant to A.R.S. § 41-1057 as to form and whether the rules are clear, concise, and understandable; within the power of the agency to make; within the enacted legislative standards; and made in compliance with appropriate procedures. Arizona Corporation Commission rules promulgated pursuant to the Commission's exclusive constitutional ratemaking authority need not be submitted to the Attorney General for certification. *Corbin v. Arizona Corp. Comm'n*, 174 Ariz. 216, 219 (App. 1992); *Phelps Dodge Corp. v. AEPSCO*, 207 Ariz. 95, 115 (App. 2004).

The rules prescribe goals and objectives for DSM programs; establish energy efficiency standards to be met by affected utilities; require implementation plans to be filed with the Commission at least every two years and prescribe their contents; establish requirements for DSM tariffs and Commission consideration of DSM tariffs; establish requirements for Commission review and approval of DSM programs and DSM measures; establish standards for DSM programs, cost allocation, and use of DSM funds; establish annual reporting requirements; establish requirements for DSM program cost recovery and require the Commission to review and address financial disincentives, recovery of fixed costs, and recovery of net lost income/revenues in a rate case upon request; allow an affected utility to request performance incentives; establish standards to analyze cost-effectiveness; require monitoring and evaluation of DSM programs and measures; allow for third-party program administration and implementation; and establish alternative energy efficiency standards for electric distribution cooperatives.

The Commission initiated this rulemaking in Decision No. 71436. The Notice of Rulemaking Docket Opening and Notice of Proposed Rulemaking were published in the Arizona Administrative Register on January 15, 2010. After consideration of numerous rounds of written comments from interested parties, and public comments, the Commission issued Decision No. 71819, which approved a final version of R14-2-2401 through R14-2-2419 and directed Staff to forward the rules to the Attorney General for review and approval, without waiver that such review is not required in this case.

These rules are directly tied to the Commission's exclusive ratemaking authority. Decision No. 71819 states that "[r]equiring affected utilities to achieve energy savings through cost-effective energy efficiency programs is an essential part of the Commission's efforts to meet its constitutional obligation to 'prescribe just and reasonable rates and charges to be made and collected . . . by public service corporations within the State for service rendered therein' because the amount of energy consumed by an affected utility's customers, and the pattern of peak usage of those customers, directly impacts the physical assets that an affected utility must have in place as well as the affected utility's operating expenses." Decision No. 71819 at ¶ 42. In that these rules are necessary for effective ratemaking, the Commission believes that it has the constitutional authority to enact the EEE rules as a comprehensive rule package under its rate setting powers and Attorney General certification of the rules is not required. However, to the extent your Office finds that Attorney General review is necessary, I have outlined below the various constitutional and statutory provisions supporting the Commission's adoption of these rules, all of which are also discussed in the Commission's Decision No. 71819 attached hereto.

**I. The Commission's Plenary and Exclusive Ratemaking Authority Is Directly Implicated In The New Energy Efficiency Rules.**

The Commission, unlike most state public service commissions, was created by the state's constitution, as opposed to legislative statutes. Accordingly, a significant degree of the Commission's authority stems from the Arizona Constitution. Article XV, section 3 of the Arizona Constitution gives the Commission exclusive authority over ratemaking matters. *See Arizona Corp. Comm'n v. State ex rel. Woods*, 171 Ariz. 286, 294, 830 P.2d 807, 815 (1992). This exclusive jurisdiction is not limited to the process of setting rates, but extends to matters

determined by the Commission to be necessary for effective ratemaking. *Id.* at 294, 830 P.2d at 815. Deference must be given to the Commission's determination of what regulation is reasonably necessary for effective ratemaking. *Id.*

To understand how these rules impact the ratemaking process, it is necessary to understand how rates are set by the Commission. The formula the Commission generally uses in setting rates is:  $(\text{Rate Base} \times \text{Rate of Return}) + \text{Expenses} = \text{Revenue Requirement}$ . "Rate Base" is the dollar value of the physical assets prudently acquired and used and useful in the provision of utility service. "Rate of Return" is the authorized return on the utility's rate base and is expressed as a percentage. "Expenses" are the reasonable and prudent costs of service that cannot be capitalized, such as purchased power costs, fuel costs, salaries, and taxes. The resulting "Revenue Requirement" is the amount that a utility is authorized to collect from its customers through its rates and that the rates adopted by the Commission are designed to produce.

The EEE rules will impact the amount of energy consumed by an affected utility's customers and the pattern of peak usage of those customers. This in turn will directly impact the physical assets that an affected utility must have in place as well as the affected utility's operating expenses. The rates that a utility is authorized to charge its customers are inextricably related to the amount of physical assets (such as generation plant facilities) used by the utility and the costs of service incurred by the utility (such as costs of purchasing power to meet peak load and the costs of the fuel sources used to generate electricity). The increased conservation of energy by end-use customers under these new EEE rules will impact the load-serving entities' rate base (as a result of lost income/revenue) and the load-serving entities' expenses (likely by lowering costs through decreased reliance on volatile and uncertain fossil-fuel based generation) and should result in energy savings. Cost effective energy efficiency is less expensive than generating electricity and has less impact on the environment.<sup>2</sup> Thus, the Commission's ratemaking authority is directly implicated by the EEE standards which in many cases will likely have a substantial impact upon a utility's rate base (or operating margins in the case of an electric cooperative) and expenses and, thus, its revenue requirement.

## **II. The Permissive Language Of Article XV, Section 3 Also Supports The Enactment Of The Rule Package.**

The Commission's constitutional authority is not limited to its exclusive ratemaking authority. The plain text of article XV, section 3 states:

The Corporation Commission shall have full power to, and shall, prescribe just and reasonable classifications to be used and just and reasonable rates and charges to be made and collected, by public service corporations within the State for service rendered therein, and make reasonable rules, regulations, and orders, by which such corporations shall be governed in the transaction of business within the State, and *may . . . make and enforce reasonable rules, regulations, and orders for the convenience, comfort,*

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<sup>2</sup> Decision No. 71819 at ¶ 42.

*and safety, and the preservation of the health, of the employees and patrons of such corporations. . . .*

(Emphasis added). Many cases address the first part of section 3, the exclusive ratemaking clause; few cases, however, address the permissive language, which is highlighted above. On its face, this permissive language gives the Commission rulemaking and other authority in areas that are not related to ratemaking.

While older Arizona cases tend to downplay this portion of section 3, more recent cases acknowledge this language as a grant of authority in areas other than ratemaking. *See, e.g., Woods*, 171 Ariz. at 292, 830 P.2d at 813; *Arizona Corp. Comm'n v. Palm Springs Util. Co., Inc.*, 24 Ariz.App. 124, 127-28, 536 P.2d 245, 248-49 (1975). The *Woods* Court, in its summary of the holding of *Arizona Eastern Railroad v. State*, 19 Ariz. 409, 171 P. 906 (1918), made the following observation:

From the later, permissive language of section 3, the court [in *Arizona Eastern*] seemingly determined that the Commission and the legislature have *concurrent* jurisdiction to regulate public service corporations in areas other than ratemaking.

*Woods*, 171 Ariz. at 292, 830 P.2d at 813 (emphasis in original) (citing *Arizona Eastern*, 19 Ariz. at 415-16, 171 P. at 909). The *Woods* Court did not squarely address the Commission's permissive section 3 authority because it found that the rules being challenged fell within the Commission's exclusive ratemaking authority. *Woods*, 171 Ariz. at 815 fn 8, 830 P.2d at 294 fn 8 (citations omitted).

In summary, section 3 clearly contains two distinct provisions: a mandatory provision, which has repeatedly been construed as the source of the Commission's exclusive and plenary ratemaking authority, and a permissive provision which likely gives the Commission concurrent authority with the legislature to undertake rulemakings and other actions in areas that are not related to ratemaking.

If the Attorney General were to conclude that the EEE Rules are not related to ratemaking, the permissive language of section 3 supports the Commission's enactment of the Rules. Under that authority, the Commission may "make and enforce reasonable rules, regulations, and orders for the convenience, comfort, and safety, and the preservation of the health, of the employees and patrons" of public service corporations. *See* Ariz. Const. art. XV, § 3. In light of the purposes underlying the Rules Package, the permissive language of section 3 also serves as an express grant of constitutional authority for the Commission's enactment of the rules. The Commission found in Decision No. 71819 that "[e]lectric utilities' resource portfolios lack adequate and sufficient diversity to promote and safeguard the security, convenience, health, and safety of their customers and the Arizona public."<sup>3</sup> The Commission also found that "[i]t is just, reasonable, proper, and necessary for the Commission to require affected utilities to include a minimum amount of energy efficiency in their resource portfolios in order to enhance system

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<sup>3</sup> Decision No. 71819 at ¶ 48.

reliability; reduce energy costs; reduce adverse environmental impacts; and promote and safeguard the security, convenience, health, and safety of their customers and the Arizona public.”<sup>4</sup>

Further, under the theory that the Commission’s permissive constitutional authority is held concurrently with the legislature, the applicable inquiry for purposes of the Attorney General’s review of rules enacted under this permissive authority is whether there are conflicting state statutes. A review of the state statutes does not indicate any such conflict. The Rules Package is adopting rules under, and in accordance with, direct statutory authority as well as the Commission’s constitutional authority; there is no apparent conflict.

**III. Art. XV, Section 13 of the Arizona Constitution Also Supports the Commission’s Rules.**

Article 15, section 13 of the Arizona Constitution entitled “Reports to commission” provides: “All public service corporations and corporations whose stock shall be offered for sale to the public shall make such reports to the Corporation Commission, under oath, and provide such information concerning their acts and operations as may be required by law, or by the Corporation Commission.”

This provision grants the Commission authority to require a public service corporation to provide reports concerning both past business activities and future plans. *See Arizona Public Service Company v. Arizona Corp. Comm’n*, 155 Ariz. 263 (App. 1987), *approved in part, vacated in part*, 157 Ariz. 532 (1988). The EEE rules contain provisions which require Class A utilities to report on past and future business activities and plans involving energy conservation.

**IV. The Commission’s Statutory Authority Also Supports Enactment of the Rules Package.**

In addition, as the Commission’s Decision points out, a number of statutes support the Commission’s authority to enact the rules. Specifically, A.R.S. §§ 40-202, -203, -204, -281, 282, -321, and -322 all lend support to the Rules to varying degrees.

A.R.S. § 40-202(A) provides: “The commission may supervise and regulate every public service corporation in the state and do all things, whether specifically designated in this title or in addition thereto, necessary and convenient in the exercise of that power and jurisdiction.” In *Southern Pacific Co.*, the Arizona Supreme Court acknowledged that this statute provides the Commission the authority to do those things necessary and convenient in the exercise of the powers so granted.<sup>5</sup> However, the Arizona Supreme Court has interpreted this statute as bestowing no additional powers on the Commission than those already granted by the Arizona Constitution or specifically granted elsewhere by the legislature. *Id.*

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<sup>4</sup> *Id.*

<sup>5</sup> *Southern Pacific Co. v. Arizona Corp. Comm’n*, 98 Ariz. 339, 348 (1965).

A.R.S. § 40-203 states: "When the commission finds that the rates, fares, tolls, rentals, charges or classifications, or any of them, demanded or collected by any public service corporation for any service, product or commodity, or in connection therewith, or that the rules, regulations, practices or contracts are unjust, discriminatory or preferential, illegal or insufficient, the commission shall determine and prescribe them by order, as provided in this title."

A.R.S. § 40-204(A) states: "Every public service corporation shall furnish to the commission, in the form and detail the commission prescribes, tabulations, computations, annual reports, monthly or periodical reports of earnings and expenses, and all other information required by it to carry into effect the provisions of this title and shall make specific answers to all questions submitted by the commission. If a corporation is unable to answer any question, it shall give a good and sufficient reason therefore."

A.R.S. § 40-321(A) states: "When the commission finds that the equipment, appliances, facilities or service of any public service corporation, or the methods of manufacture, distribution, transmission, storage or supply employed by it are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine what is just, reasonable, safe, proper, adequate or reasonable, and shall enforce its determination by order or regulation."

A.R.S. § 40-322(A)(1) provides that the Commission may require and establish specific standards, classifications, practices, or services to be furnished by public service corporations, while A.R.S. § 40-322(A)(2) allows the Commission to ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage or other condition pertaining to the supply of the product, commodity or service furnished by such public service corporation.

A.R.S. §§ 40-281 and 40-282 require a public service corporation to obtain a Certificate of Convenience and Necessity ("CC&N") from the Commission before constructing any plant or system, prohibit a public service corporation from exercising any right or privilege under a franchise or permit without first obtaining a CC&N, and authorize the Commission to attach to the exercise of rights under a CC&N such terms and conditions as the Commission deems that the public convenience and necessity require.

All of these statutory provisions support the Commission's adoption of the EEE rules.

#### **V. The EEE Rules Are Not Subject to the Rulemaking Moratorium.**

Laws 2009, Chapter 7, § 28 (3<sup>rd</sup> Special Session) ("Moratorium"), as amended by Laws 2010, Chapter 287, Section 18 provides that for the fiscal year 2010-2011, an agency shall not conduct any rulemaking that would impose increased monetary or regulatory costs on other state agencies, political subdivisions, persons, or individuals or would not reduce the regulatory burden on persons or individuals so regulated. By its own terms, the Moratorium does not apply to rulemakings "[t]o fulfill an obligation related to fees, rates, fines or regulations that are

expressly delineated in the constitution of this state" or "[t]o eliminate or replace archaic or illegal rules," among others.<sup>6</sup>

As the Commission's Decision found because the Commission is conducting this rulemaking to fulfill its constitutional ratemaking obligation under Art. 15, § 3, this rulemaking is not prohibited by the Moratorium. In addition, the Commission is not required, by the express terms of the Moratorium, to obtain Governor approval before proceeding with this rulemaking.<sup>7</sup>

#### VI. Conclusion.

Collectively, the Rules Package establishes a coherent process for receiving the information necessary for the Commission to ensure that electric utilities' resource portfolios contain adequate and sufficient diversity to promote and safeguard the security, convenience, health, and safety of their customer and the Arizona public. In particular, the Rules Package requires affected utilities to include a minimum amount of energy efficiency in their resource portfolios in order to enhance system reliability; reduce energy costs; reduce adverse environmental impacts; and promote and safeguard the security, health and safety of their customers and the Arizona public. The Commission respectfully requests that the Attorney General's office either issue correspondence concluding that the Rules were enacted pursuant to the Commission's constitutional authority and are not subject to Attorney General review or, alternatively, certify the Rules pursuant to A.R.S. § 41-1044. Please feel free to contact me if you would like additional information on these matters.

Sincerely,



Maureen A. Scott  
Senior Staff Attorney  
Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007  
(602) 542-3402

Enclosures

<sup>6</sup> (Moratorium subsections (B)(4)).

<sup>7</sup> Decision No. 71819 at ¶ 55.

AGENCY RECEIPT

Notice of Final Rulemaking

1. Agency name: Arizona Corporation Commission
2. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:

<u>Subchapters, Articles, Parts, and Sections</u> (in alphabetical and numerical order)	<u>Action</u>
Article 24	New Article
R14-2-2401	New Section
R14-2-2402	New Section
R14-2-2403	New Section
R14-2-2404	New Section
R14-2-2405	New Section
R14-2-2406	New Section
R14-2-2407	New Section
R14-2-2408	New Section
R14-2-2409	New Section
R14-2-2410	New Section
R14-2-2411	New Section
R14-2-2412	New Section
R14-2-2413	New Section
R14-2-2414	New Section
R14-2-2415	New Section
R14-2-2416	New Section
R14-2-2417	New Section
R14-2-2418	New Section
R14-2-2419	New Section

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ATTORNEY GENERAL'S OFFICE

**AGENCY CERTIFICATE**

**Notice of Final Rulemaking**

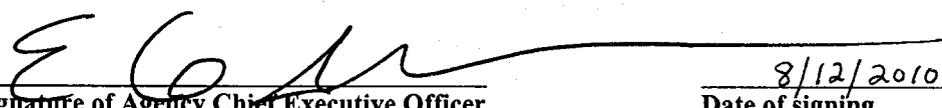
1. **Agency name:** Arizona Corporation Commission
2. **Chapter heading:** Corporation Commission-Fixed Utilities
3. **Code citation for the Chapter:** 14 A.A.C. 2
4. **The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:**

**Subchapters, Articles, Parts, and Sections  
(in alphabetical and numerical order)**

**Action:**

Article 24	New Article
R14-2-2401	New Section
R14-2-2402	New Section
R14-2-2403	New Section
R14-2-2404	New Section
R14-2-2405	New Section
R14-2-2406	New Section
R14-2-2407	New Section
R14-2-2408	New Section
R14-2-2409	New Section
R14-2-2410	New Section
R14-2-2411	New Section
R14-2-2412	New Section
R14-2-2413	New Section
R14-2-2414	New Section
R14-2-2415	New Section
R14-2-2416	New Section
R14-2-2417	New Section
R14-2-2418	New Section
R14-2-2419	New Section

5. **The rules contained in this package are true and correct as proposed.**

6.   
Signature of Agency Chief Executive Officer

8/12/2010  
Date of signing

Ernest G. Johnson

Executive Director

Printed or typed name of signer

Title of signer

**ATTORNEY GENERAL APPROVAL OF FINAL RULES**

1. **Agency name:** Arizona Corporation Commission
2. **Chapter heading:** Corporation Commission – Fixed Utilities
3. **Code citation for the Chapter:** 14 A.A.C. 2
4. **The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:**

**Subchapters, Articles, Parts, and Sections**  
**(in alphabetical and numerical order)**

**Action**

Article 24	New Article
R14-2-2401	New Section
R14-2-2402	New Section
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R14-2-2404	New Section
R14-2-2405	New Section
R14-2-2406	New Section
R14-2-2407	New Section
R14-2-2408	New Section
R14-2-2409	New Section
R14-2-2410	New Section
R14-2-2411	New Section
R14-2-2412	New Section
R14-2-2413	New Section
R14-2-2414	New Section
R14-2-2415	New Section
R14-2-2416	New Section
R14-2-2417	New Section
R14-2-2418	New Section
R14-2-2419	New Section

5. **The rules contained in this package are approved as final rules.**

6. \_\_\_\_\_  
Attorney General

\_\_\_\_\_  
Date of signing

NOTICE OF FINAL RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;

SECURITIES REGULATION

CHAPTER 2. CORPORATION COMMISSION

FIXED UTILITIES

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R14-2-2401                  | New Section              |
| R14-2-2402                  | New Section              |
| R14-2-2403                  | New Section              |
| R14-2-2404                  | New Section              |
| R14-2-2405                  | New Section              |
| R14-2-2406                  | New Section              |
| R14-2-2407                  | New Section              |
| R14-2-2408                  | New Section              |
| R14-2-2409                  | New Section              |
| R14-2-2410                  | New Section              |
| R14-2-2411                  | New Section              |
| R14-2-2412                  | New Section              |
| R14-2-2413                  | New Section              |
| R14-2-2414                  | New Section              |
| R14-2-2415                  | New Section              |
| R14-2-2416                  | New Section              |
| R14-2-2417                  | New Section              |
| R14-2-2418                  | New Section              |
| R14-2-2419                  | New Section              |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: Arizona Constitution Article XV § 3; A.R.S. §§ 40-202; 40-203; 40-321, 40-322, 40-281, 40-282.  
Implementing statute: Arizona Constitution Article XV § 3; A.R.S. §§ 40-202; 40-203; 40-321, 40-322, 40-281, 40-282.
- 3. The effective date of the rules:**  
Sixty days after filing with the Secretary of State.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**  
Notice of Rulemaking Docket Opening: January 15, 2010  
Notice of Proposed Rulemaking: January 15, 2010
- 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Maureen A. Scott, Esq.  
Attorney, Legal Division, Arizona Corporation Commission  
Address: 1200 West Washington Street  
Phoenix, Arizona 85007  
Telephone: (602) 542-3402  
Fax: (602) 542-4870  
E-mail: [msscott@azcc.gov](mailto:msscott@azcc.gov)

or

Name: Barbara Keene  
Public Utilities Analyst Manager, Arizona Corporation Commission  
Address: 1200 West Washington Street  
Phoenix, Arizona 85007  
Telephone: (602) 542-0853  
Fax: (602) 364-2270  
E-mail: [bkeene@azcc.gov](mailto:bkeene@azcc.gov)

**6. An explanation of the rule, including the agency's reasons for initiating the rule:**

The purpose of electric energy efficiency standards is for affected utilities to achieve energy savings through cost-effective energy-efficiency programs in order to ensure electric service at reasonable rate and costs.

Cost effective energy efficiency is less expensive than generating electricity and provides less impact on the environment.

By December 31, 2020, the proposed rules would require affected utilities to achieve cumulative annual energy savings equivalent to at least 22 percent of the affected utility's retail electric energy sales for 2019.

**7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None.

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

**9. The Summary of the economic, small business, and consumer impact:**

**B. Economic, Small Business and Consumer Impact Statement**

**1. Identification of the proposed rule making.**

The rules are new Sections under Title 14, Chapter 2 - Corporation Commission, Fixed Utilities. Rules R14-2-2401 through R14-2-2419 require affected utilities, by December 31, 2020, to achieve cumulative annual energy savings, measured in kilowatt-hours, equivalent to at least 22 percent of the affected utility's retail electric energy sales for calendar year 2019.

The purpose of Electric Energy Efficiency Standards is for affected utilities to achieve energy savings through cost-effective energy efficiency programs in order to ensure reliable electric service at reasonable rates and costs. Energy efficiency means the production or delivery of an equivalent level and quality of end-use electric service using less energy, or the conservation of energy by end-use customers.

Requiring affected utilities to achieve energy savings through cost-effective energy efficiency programs is an essential part of the Commission's efforts to meet its constitutional obligation to "prescribe just and reasonable rates and charges to be made and collected ... by public service corporations within the State for service rendered therein because the amount of energy consumed by an affected utility's customers, and the pattern of peak usage of those customers, directly impacts the physical assets that an affected utility must have in place as well as the affected utility's operating expenses. Reducing the overall consumption of energy can reduce fuel costs, purchased power costs, new capacity costs, transmission costs, distribution costs, and adverse environmental impacts (such as water consumption and air emissions). Even reducing peak demand without reducing overall consumption can reduce fuel costs, purchased power costs, and new capacity costs because not as much plant or purchased power is needed at peak times to meet customers' needs.

Energy efficiency is a reliable energy resource that costs less than other resources for meeting the energy needs of utility ratepayers. Increasing energy efficiency to meet the Energy Efficiency Standard set forth in the Electric Energy Efficiency Standards rules will reduce the total cost of energy for affected utilities' ratepayers. Increasing energy efficiency will result in less air pollution, reduced carbon emissions, less consumption of water, and fewer other adverse environmental impacts than would occur if energy efficiency is not increased. Increasing energy efficiency will reduce affected utilities' costs of compliance with current and future environmental regulations. Increasing energy efficiency will reduce load growth, diversify energy resources, and enhance the reliability of the electric grid, thereby reducing the pressure on and costs of electric distribution and transmission.

The Rules apply to affected utilities, as defined in the Rules. The public service corporations to whom the proposed Electric Energy Efficiency Standards rules apply, because they are affected utilities classified as Class A under A.A.C. R14-2-103(A)(3)(q) and are not electric distribution cooperatives with fewer than 25 percent of their customers in Arizona, are Arizona Public Service Company, Graham County Electric Cooperative, Mohave Electric Cooperative, Morenci Water and Electric, Navopache Electric Cooperative, Sulphur Springs Valley Electric Cooperative, Tucson Electric Power Company, Trico Electric Cooperative, and UNS Electric. None of these entities is a small business under A.R.S. § 41-1001.

2. Persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rule making.
  - a. the public at large;
  - b. consumers of electric service in Arizona;
  - c. electric public service corporations;
  - d. Arizona Corporation Commission;
  - e. manufacturers, distributors, and installers of energy efficiency measures; and
  - f. public entities, such as schools, cities, counties, and state agencies.
3. Cost-benefit analysis.
  - a. Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rule making.

Probable costs to the Commission of the proposed rule making would include costs associated with reviewing filings, and participating in meetings and hearings.

To the extent that the implementing agency and other agencies are customers of affected utilities and install energy efficiency measures, probable costs will include initial costs for the measures. Benefits will include lower utility bills than without these rules.

- b. Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rule making.

To the extent that political subdivisions are customers of affected utilities and install energy efficiency measures, probable costs will include initial costs for the measures. Benefits will include lower utility bills than without these rules. Political subdivisions may also benefit by increased sales tax revenues resulting from sales of energy efficient products.

- c. Probable costs and benefits to businesses directly affected by the proposed rule making, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rule making.

Affected utilities may incur additional costs of complying with program development, program implementation, and reporting activities. Although some of the affected utilities are now engaging in some of the required activities, they may incur additional costs of complying with the rules. Payroll expenditures of affected utilities may be increased. These costs may be recovered through the affected utilities' rates to customers. Other costs may include penalties that may be imposed for failing to comply with the rules. Revenues of affected utilities may be reduced temporarily. Affected utilities will benefit from reduced costs for generation or procurement of electricity.

Arizona currently has a monopoly market structure for electric utilities. The Commission generally sets rates for the electric utilities using the following formula: (Rate Base x Rate of Return) + Expenses = Revenue Requirement. "Rate Base" is the dollar value of the physical assets prudently acquired and used and useful in the provision of utility service. "Rate of Return" is the authorized return on the utility's rate base and is expressed as a percentage. "Expenses" are the reasonable and prudent costs of service that cannot be capitalized, such as purchased power costs, fuel costs, salaries, and taxes. The resulting "Revenue Requirement" is the amount that a utility is authorized to collect from its customers through its rates and that the rates adopted by the Commission are designed to produce. Thus, the rates that a utility is authorized to charge its customers are inextricably related to the amount of physical assets (such as generation plant facilities) used by the utility and the costs of service incurred by the utility (such as costs of purchasing power to meet peak load and the costs of the fuel sources used to generate electricity).

The proposed Electric Energy Efficiency Standards rules will impact an affected utility's revenues, at least in the interim period before the affected utility's next rate case, because demand-side management ("DSM") measures and DSM programs must be designed to accomplish energy efficiency (which reduces energy consumption), load management (which reduces peak demand or improves system operating efficiency), or demand response (which affects the timing or quantity of customer demand and usage and thus can reduce energy consumption). Currently, affected utilities' rate schemes rely heavily upon volumetric rates, meaning that the amount a customer is billed by the affected utility is based in large part upon the level of energy (kWh) consumed by the customer during the billing period. If that amount is reduced by the customer's decreased consumption resulting from DSM measures/DSM programs, the affected utility's revenues will be impacted accordingly. Rule R14-2-2410(I) requires that this impact be addressed in an affected utility's rate case, if the affected utility requests to have it addressed and provides documentation/records supporting its request.

If an affected utility is permitted to recover the costs of compliance with the proposed Electric Energy Efficiency Standards rules through ratemaking (because the costs of compliance are included as reasonable and prudent expenses and are consistent with the requirements imposed under Rule 2410(A)), the affected utility's revenue requirement will be impacted. Likewise, if an affected utility is permitted to recover its fixed costs and/or its net lost income/revenue resulting from Commission-approved DSM programs (as contemplated under R14-2-2410(I)), the affected utility's revenue requirement will be impacted. When an affected utility's revenue requirement is impacted, the rates charged to its customers are also impacted.

4. Probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the proposed rule making.

The Commission and affected utilities may need additional employees or contractors. Manufacturers, distributors, and installers of energy efficiency measures may add employees. No impact on employment in political subdivisions is expected.

5. Probable impact of the proposed rule making on small businesses.

a. Identification of the small businesses subject to the proposed rule making.

To the extent that small businesses are customers of affected utilities and install energy efficiency measures, probable costs will include initial costs for the measures. Benefits will include lower utility bills than without these rules.

Only public service corporations that have annual operating revenue exceeding \$5,000,000 (Class A electric utilities) will be required to comply with the rules. These entities are unlikely to be small businesses.

b. Administrative and other costs required for compliance with the proposed rule making.

None.

- c. A description of the methods that the agency may use to reduce the impact on small businesses.

Not applicable.

- d. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rule making.

The public at large will benefit from increased energy efficiency because energy efficiency reduces the need for electric generation. This results in fewer adverse impacts on air, land, and water than producing electricity.

The reduction in overall energy consumption that will result from the rules should result in long-term cost savings to the affected utilities and thus to their customers because of decreased demand for generation and increased electric grid reliability and cost stability. In addition, the reduction in overall energy consumption will result in decreased adverse environmental impacts, such as air emissions, coal ash, nuclear waste, and water consumption, which should result in benefits to the public at large that cannot be adequately quantified at this time. The rules' requirement for each DSM program to be cost-effective will help to ensure that the programs adopted under the rules will result in long-term incremental benefits to all impacted groups.

6. Probable effect on state revenues.

There may be an increase in state revenues from sales taxes on energy efficiency products. However, there may be a decrease in revenues from sales taxes on electricity bills as customers reduce their consumption. There may also be increases in income taxes resulting from revenue increases of Arizona manufacturers, distributors, and installers of energy efficiency measures.

7. Less intrusive or less costly alternative methods of achieving the purpose of the proposed rule making.

The Commission is unaware of any alternative methods of achieving the purpose of the rule making that would be less intrusive or less costly.

8. If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms.

The data used to compile the information set forth in subsection B are reasonably adequate for these purposes.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

In addition to grammatical and punctuation corrections, the following non-substantial changes were made for the purpose of clarification:

Rule 2401 is modified by the additions of the following definitions:

"Fuel-neutral" means without promoting or otherwise expressing bias regarding a customer's choice of one fuel over another.

"Thermal envelope" means the collection of building surfaces, such as walls, windows, doors, floors, ceilings, and roofs, that separate interior conditioned (heated or cooled) spaces from the exterior environment.

Rule 2404(A) is revised to read as follows: "Except as provided in R14-2-2418, in order to ensure reliable electric service at reasonable ratepayer rates and costs, by December 31, 2020, an affected utility shall, through cost-effective DSM energy efficiency programs, achieve cumulative annual energy savings, measured in kWh, equivalent to an least 22% of the affected utility's retail electric energy sales for calendar year 2019."

Rule 2404(B) is revised to read as follows: "An affected utility shall, by the end of each calendar year, meet at least the cumulative annual energy efficiency standard listed in Table 1 for that calendar year. An illustrative example of how the required energy savings would be calculated is shown in Table 2. An illustrative example of how the standard could be met in 2020 is shown in Table 4."

Rule 2404(B) is further revised by adding the heading "Table 1. Energy Efficiency Standard" and by replacing "in" with "by the End of" in the heading for the second column. Rule 2404(B) is further revised by adding a new Table 2 to provide an illustrative example of how the required savings would be calculated.

Rule 2404(C) is revised by adding the following at the end of the subsection: "The measured reductions in peak demand occurring during a calendar year after the effective date of this Article may be counted for that calendar year even if the demand response or load management program resulting in the reductions was implemented prior to the effective date of this Article."

Rule 2404(D) is revised by replacing "as follows" in the third sentence with "as listed in Table 3, Column A." The Table in Rule 2404(D) is revised by adding the heading "Table 3. Credit for Pre-Rules Energy Savings"; by reversing the columns for clarity; by adding column labels "A" and "B"; and by replacing the word "Pre-Standard" with "Pre-Rules" where it appears in the headings for the columns. The words "energy efficiency" is inserted between "pre-rules" and "programs."

Rule 2404(I) is revised by adding a new Table 4 to provide an illustrative example of how the 22-percent standard could be met in 2020.

Rule 2407(B) is revised by deleting "annual" before "implementation plan."

Rule 2407(E) is revised by inserting "DSM" before "programs" and "program" and by inserting "affected" before "utilities."

Rule 2409(A)(4)(g) is revised to read "The environmental benefits realized, including reduced emissions and water savings;

Rule 2410(A)(3) is revised by inserting "pursuant to R14-2-2415" after "cost-effectiveness."

Rule 2413(a) and (c) are revised by inserting "the" before "baseline."

Rule 2414(I) is revised by replacing the language "if requested to do so by the affected utility in its rate case and the affected utility provides documentation/records supporting its request in the rate application" with "if an affected utility requests such review in its rate case and provides documentation/records supporting its request in its rate application."

Rule 2415(B) is revised by inserting "DSM" before "program planning" and "program improvement."

Rule 2419(B) is modified by changing "The affected utility" to read "An affected utility."

**11. A summary of the comments made regarding the rule and the agency response to them:**

The written and oral comments received by the Commission concerning the Notice of Proposed Rulemaking, after its publication date, are included in the following table, along with the Commission response to each.

Comments on Notice of Proposed Rulemaking		
Section	Public Comment	Commission Response
Proposed EEE Rules Generally	WRA expressed support for the proposed EEE rules and urged the Commission to adopt them, stating that they will save ratepayers money by lowering the overall cost for electric energy services; decrease emissions of various pollutants into the atmosphere (thereby reducing Arizona's contributions to climate change, health impacts caused by emissions, damage to wildlife and plants, and utilities' costs to comply with environmental regulations); make Arizona more energy efficient; enable utilities to recover program costs in a timely manner and to address adverse revenue effects in rate cases; allow utilities to earn performance incentives; and keep the Commission and the public informed about efficiency program progress and cost-effectiveness.	The Commission acknowledges the supportive comments. No change is needed in response to these comments.
	EnerNOC applauded Commission Staff for its efforts and attentiveness to interested parties' comments.	The Commission acknowledges the supportive comment. No change is needed in response to this comment.
	EnerNOC requested that the Commission explicitly include third parties or energy service companies, including demand response providers such as EnerNOC, as a means for a utility to satisfy its DSM targets.	The proposed EEE rules allow an affected utility to use reductions in peak demand resulting from cost-effective demand response programs to meet a portion of the energy efficiency ("EE") standard and allow an affected utility to use an energy service company or other external resource to implement a DSM program or DSM measure. The Commission considers EnerNOC to be an external resource. No change is needed in response to this comment.
	OPOWER stated that, in this docket, the Commission shows a firm commitment to driving significant energy reductions in the state by establishing aggressive efficiency goals for utilities and defining DSM measures broadly, ensuring that utilities may use innovative and proven programs to meet their energy savings targets.	The Commission acknowledges the supportive comment. No change is needed in response to this comment.
	TEP/UNS stated that the proposed EEE rules should be aligned with any federally mandated EE standard, at least being consistent with federal requirements as to measurement methodology and definitions.	Federal law (U.S.C. Title 16, Chapter 46 ("PURPA")) currently requires each state regulatory authority, such as the Commission, to consider each standard set forth therein and determine whether or not to implement the standard. One PURPA standard, added in the Energy Independence and Security Act of 2007, would require each electric utility to integrate EE resources into utility, state, and regional plans and adopt policies establishing cost-effective EE as a priority resource. (16 U.S.C. § 2621(d)(16).) The Commission has

	<p>committed to considering this standard in the pending Incentives Docket, E-00000J-08-0314 et al. ("Incentives Docket").<sup>1</sup> The Commission is unaware of any manner in which the proposed EEE rules conflict with PURPA or any other existing or proposed federal requirements,<sup>2</sup> and no citations to conflicting provisions have been provided. This issue will be dealt with in the Incentives Docket, and the Commission will ensure that the Commission's standards do not conflict with any applicable federal law. No change is needed in response to this comment.</p>
<p>TEP/UNS initially requested that the Commission clarify its authority to promulgate the proposed EEE rules, but later clarified that they are not challenging the Commission's authority to adopt the rules.</p>	<p>The Commission set forth its authority for this rulemaking in the Notice of Proposed Rulemaking published in this matter. No change is needed in response to this comment.</p>
<p>The Cooperatives<sup>3</sup> asserted that the proposed EEE rules should not include a requirement for utilities to submit information regarding environmental externalities and societal benefits and savings because the Cooperatives will likely be unable to provide any meaningful information regarding assumptions, calculations, and amounts for environmental externalities or societal benefits and savings and would incur significant costs in trying to quantify these societal benefits and savings and because the Commission will already receive this type of information through its Resource Planning Rules.</p>	<p>It is important for an affected utility to estimate and consider societal benefits and savings and environmental externalities when determining which EE programs to propose. Staff believes that this information is readily available and will not be burdensome to acquire and provide. (Tr. at 19-20.) Because incremental benefits are a key consideration in determining cost-effectiveness, the Commission believes that this information is crucial for the utility and the Commission to have. No change is needed in response to this comment.</p>
<p>Katie Morales, an individual ratepayer, urged the Commission to require Arizona utilities to invest more ratepayer dollars into EE and to increase EE requirements to at least 20% by 2020, because EE is one of the most effective energy cost management tools; is supported by numerous studies; and will help residents to save money, save energy, and protect the environment. Ms. Morales asserted that although EE measures may result in slightly higher rates, with proper implementation, they will result in declining electric bills and declining aggregate demand for electricity, which will reduce the total cost of electric energy services over the long run because utilities will reduce their fuel and generation costs.</p>	<p>The Commission acknowledges and agrees with the supportive comments. No change is needed in response to these comments.</p>

<sup>1</sup> See Staff Memorandum (Dec. 18, 2008) (filed in Incentives Docket).

<sup>2</sup> See Tr. at 23.

<sup>3</sup> Duncan Valley 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. had comments submitted on their behalf by Grand Canyon State Electric Cooperative Association.

	<p>SWEEP strongly supports the proposed EEE rules and asserts that they are in the public interest. SWEEP asserts that the rules will reduce the total energy costs for affected utilities' ratepayers because DSM programs and measures must be cost-effective to be approved; will reduce other costs, including environmental costs, water costs, and environmental compliance costs because of reductions in air pollution, carbon emissions, and environmental impacts; will increase the reliability of the electric grid by reducing load growth, diversifying energy resources, and reducing the pressure on and costs of electric distribution and transmission; and will enable the Commission to ensure reliable electric service at reasonable rates and costs for ratepayers. SWEEP further asserts that the rules will create jobs and improve the Arizona economy.</p>	<p>The Commission acknowledges and agrees with the supportive comments. Staff agreed with SWEEP's assertions regarding why the proposed EEE rules are in the public interest and the benefits to be derived from them. (Tr. at 28.) No change is needed in response to these comments.</p>
	<p>APS stated that it supports the efforts to develop EE standards and rules for Arizona; that it was actively involved in the workshops that took place in 2009; and that, as a leading provider of EE and DSM programs for the past several years, it is committed to expanding its EE programs going forward.</p>	<p>The Commission acknowledges the supporting comment. No change is needed in response to this comment.</p>
Rule 2404	<p>EnerNOC supports the inclusion of demand response as a means of achieving the overall consumption reduction of 22%, which EnerNOC said is aggressive but achievable. EnerNOC asserted that demand response results in a number of benefits, including system security, deferral of new investment, protecting consumers from price spike during peak periods, and reducing emissions during peak periods.</p>	<p>The Commission acknowledges the supportive comment. No change is needed in response to this comment.</p>
	<p>EnerNOC requested that the rule be modified either to increase the cap on demand response from 2% to 5% or a range of 2 to 5% or to implement a separate peak-load reduction target of 5% and an EE standard of 17% or a requirement that the 22% reduction include a peak-load reduction of 5%.</p>	<p>The 2% cap is appropriate because affected utilities otherwise may choose to implement more demand response programs that shift time of usage instead of EE programs that will reduce usage. Demand response programs reduce affected utilities' costs without reducing revenues, but do not reduce overall consumption. The Commission desires to see a reduction in overall consumption. No change is needed in response to this comment.</p>
	<p>APS explained that it understands 2404 to allow the effects of EE programs implemented before the rules to count for up to 4% toward the 22% standard, but not to allow demand response program results to count toward the 22% standard (and the 2% cap on demand response) unless the results occur after the rules take effect (although the demand</p>	<p>The Commission appreciates APS's explanation of its understanding of these provisions in 2404. No change is needed in response to this comment.</p>

<p>response program could have been implemented before the rules). APS explained that because EE and demand response programs have different aims, 2404 distinguishes between the results from each.</p>	
<p>EnerNOC requested that the Commission clarify whether the peak-load reduction of 2% is for existing or only new incremental peak-load reduction measures.</p>	<p>The proposed EEE rules allow an affected utility to count peak demand reductions that occur after the effective date of the rules, even if the demand response or load management program that caused the reductions was implemented before the effective date of the rules. The restriction in 2404(D) applies only to EE programs, not to demand response and load management programs. The Commission is adding language to clarify this in 2404(C) in the text for the Notice of Final Rulemaking.</p>
<p>EnerNOC stated that it has previously expressed concerns at the workshops about converting demand reductions in to energy and vice versa because the conversions may not produce real, measurable, and verifiable results. EnerNOC explained that EE measures reduce consumption in kWh, whereas demand response reduces peak demand. EnerNOC stated that these may not be easily exchanged for one another. EnerNOC stated that it has previously suggested adoption of a percentage reduction of 0.5% per year, resulting in a total peak demand reduction of 5% in 2020. EnerNOC provided a list of other ways to design a demand response target and included references to regulatory actions taken and/or pending by the federal government and the governments of several states. EnerNOC stated that it hopes the Commission will carefully consider the many various ways in which states have adopted demand reduction policies and adopt a policy that is most suitable for Arizona. EnerNOC also requested that the Commission examine the implications of the 50% load factor to reducing the opportunity for peak-load reductions and that the Commission hold workshops and determine baseline methodology before utilities submit their DSM program plans.</p>	<p>The Commission believes that it is necessary and appropriate to establish a standard load factor to be used in determining the annual energy savings equivalent for peak demand reductions. However, if an affected utility determines that the standard impedes its ability to receive credit for actual peak load reductions, the Commission encourages the affected utility to petition the Commission for a waiver of the standard load factor under 2419(B). The Commission believes that it is not necessary or appropriate at this time to include a mandatory peak demand reduction standard for affected utilities to meet, as the Commission's primary goal with these rules is to increase energy efficiency. No change is needed in response to this comment.</p>
<p>OPOWER expressed its support for the EE targets in the proposed EEE rules, stating that it is wise for the Commission to set aggressive efficiency targets to reduce the state's energy consumption and that the targets are necessary and achievable. OPOWER also affirmed its understanding that utilities may use behavior-based programming to meet their annual savings goals.</p>	<p>The Commission acknowledges the supportive comments and confirms that there is nothing in the proposed EEE rules that would prohibit an affected utility from using a cost-effective behavior-based DSM measure or program toward meeting the EE standard. No change is needed in response to this comment.</p>

<p>TEP/UNS stated that although they support the principle of EE, and the proposed EEE rules are a step in the right direction, the proposed EEE rules are not in the public interest because the targets should be established based on studies and utility-specific and perhaps even service-area-specific analyses. TEP/UNS asserted that the 22% standard and ramp-up schedule are unsupported by testimony or analytical studies. TEP/UNS listed several sources that TEP/UNS assert argue against imposition of the 22% standard.<sup>4</sup> TEP/UNS further stated that the Commission should examine the existing studies in additional hearings and only adopt a five-year standard for now, with longer term standards to be adopted after additional examination. TEP/UNS stated that the EE savings for the first few years should not be too difficult to achieve, as these programs will be “low-hanging fruit,” but that accomplishing the required savings in the later years will be more difficult.</p>	<p>The Commission has determined that an aggressive long-term EE standard (as opposed to a set of divergent standards for different affected utilities) is necessary and appropriate to implement now to ensure that Arizona consumers have a reliable and reasonably priced electric supply available for the long term. The Commission does not believe that aspirations should be set low or that additional delay would result in a more effective standard. If TEP/UNS determine that the EE standard cannot be met at some point, despite their best efforts, the proposed EEE rules allow them to petition for a waiver under 2419(B). The Commission is taking action now, during this period of slowed growth, to avert energy shortages and increased costs later and to protect the environment. No changes are necessary in response to these comments.</p>
<p>TEP/UNS stated that utilities should be able to exchange renewable energy credits and efficiency standard requirements to meet both the Renewable Energy Standards and the proposed EEE rules in an economical manner.</p>	<p>The proposed EEE rules allow an affected utility to count energy savings from combined heat and power installations that do not qualify under the Renewable Energy Standards and Tariff (“REST”) rules, but otherwise do not speak to the REST rules. While the REST rules and the proposed EEE rules share the goals of ensuring reliable and reasonably priced electric service and protecting the environment, their means of achieving those goals are different. The REST rules are designed to achieve those goals by having affected utilities use different energy sources, and the proposed EEE rules achieve those goals by having affected utilities take action to reduce peak loads and overall energy consumption. In light of the different approaches, it would be inappropriate to treat the progress achieved under each standard interchangeably. No change is needed in response to this comment.</p>
<p>TEP/UNS stated that they are concerned about the impact of the proposed EEE rules because selling less power will result in less revenue unless the Commission authorizes recovery of</p>	<p>The Commission is addressing disincentives and fixed cost recovery in the Incentives Docket. The Commission has been holding workshops on decoupling in that docket and</p>

<sup>4</sup> TEP/UNS cited The Energy Efficiency Task Force Report (January 2006) produced as part of the Clean and Diversified Energy Initiative for the Western Governors’ Association; the EPA’s Guide to Resource Planning with Energy Efficiency (November 2007); The Institute for Electric Efficiency’s (“IEE’s”) State Energy Efficiency Regulatory Frameworks (January 2010); and IEE’s White Paper entitled “Assessment of Electricity Savings in the U.S. Achievable through New Appliance Equipment Efficiency Standards and Building Efficiency Codes (2010-2020)” (December 2009).

<p>that lost revenue somehow. TEP/UNS characterized the rules as producing a de facto rate decrease (equal to 1.0% to 1.2% for each 2% decrease in kWh sold), which will not be remedied until a subsequent rate case, and pointed out that TEP cannot file a rate case until 2012. TEP/UNS acknowledged that Rule 2410(I) speaks to cost recovery in a rate case, but expressed concern about having to use an accounting order and about the delay in recovery. TEP/UNS also acknowledged that the Commission has another pending docket concerning decoupling and incentives, but stated that it is unclear what will come out of that docket.</p>	<p>intends to determine how to resolve those issues in that docket. If that is not possible before an affected utility's next rate case, the proposed EEE rules require the Commission to consider the issue upon request in an affected utility's rate case, if the affected utility provides supporting records/documentation. In addition, an affected utility can, in the meantime, request approval for an accounting order. No change is needed in response to this comment.</p>
<p>The Cooperatives asserted that while they can increase the amount and scope of cost-effective EE programs, they believe that the standard in the proposed EEE rules may not be realistic, measurable, or achievable. They echoed TEP/UNS's comments regarding setting the standard based on studies and analyses and further asserted that they cannot meet the 22% standard by 2020 or the annual ramp-up standards and that one standard based on reductions in kWh sales is not appropriate for all utilities. The Cooperatives assert that only SWEEP, which is not subject to the proposed EEE rules, actively supported an EE standard as high as 20%; that the standard should be based on studies; that studies support standards that are significantly lower than the proposed 22% standard; and that a goal/target based on member/customer participation in proven EE programs would be more appropriate than a standard based on percentage reductions in kWh.</p>	<p>The Commission determined, after the Cooperatives previously expressed their concerns regarding the standard, that it would be appropriate to allow them to meet a reduced standard. The reduced standard was included in the proposed EEE rules. The Commission reiterates its response to the similar comments of TEP/UNS regarding setting an aggressive uniform standard for utilities. No change is needed in response to these comments.</p>
<p>The Cooperatives assert that a utility should be able to count any and all DSM/EE measures invested in since 2005 toward meeting the EE standard, without caps or disallowances, and that not allowing the use of DSM or of delivery system efficiency improvements to meet the EE standard "severely handicaps" the Cooperatives in meeting the EE standard. The Cooperatives supported EnerNOC's comments that the demand response cap should be raised.</p>	<p>The Commission has capped the amount of pre-rules EE program impact that can be counted each year because the Commission desires to increase the cost-effective EE programs implemented by affected utilities. The Commission reiterates the reasons stated previously regarding the cap for demand response programs. Through the rules, the Commission desires to see a reduction in overall electric consumption. Delivery system efficiency does not reduce consumption. The proposed EEE rules do allow the use of DSM. EE is a form of DSM. No change is needed in response to these comments.</p>
<p>APS expressed support for the Commission's efforts to develop EE standards and rules, stated that the 22% savings by 2020 is very aggressive and will take a lot of hard work and</p>	<p>The Commission acknowledges the supportive comment. No change is needed in response to this comment.</p>

<p>considerable money to achieve, and expressed support for the proposed EEE rules' flexibility in meeting the 22% goal by 2020 (counting of historical results, of results from demand response programs, and of a portion of results from improved codes and standards).</p>	
<p>APS explained its understanding of the 22% EE standard, which it stated means that in the year 2020, the sales for a utility will be 22% lower than they would have been if the utility had never implemented any EE programs. APS explained that the savings would not all have been achieved in 2020—rather, they would be the savings accrued since the utility began implementing EE programs, built up incrementally over the years. APS stated that it is useful to look at the incremental goals for each year, but that it is the cumulative number that matters.</p>	<p>The Commission appreciates APS's explanation of its understanding of these provisions in 2404. No change is needed in response to this comment.</p>
<p>Arizona PIRG Education Fund ("PIRG"), on behalf of itself and 187 listed individuals, expressed support for an EE requirement of at least 20% by 2020. PIRG expressed support for the proposed EEE rules, stating that EE is a proven, immediate, and effective way to save ratepayers money. PIRG stated that it wants to ensure that the hundreds of other citizens, organizations, and businesses who previously urged the Commission to adopt an EE standard of at least 20% by 2020<sup>5</sup> are counted as supporters of the proposed EEE rules. PIRG stated that there is recognition and support across the state to raise rates for an increase of effective EE programs that ultimately will save consumers and businesses money on their monthly electric bills. PIRG stated that increasing EE to at least 20% by 2020 tops the list for achieving its three Principles for the Electric System: (1) Access to safe, reliable, affordable electricity service; (2) Balance of the long-term and short-term needs of consumers as well as the interests of various classes of consumers; and (3) Consumers being assured that the public interest guides all decisions with regard to the electric system.</p>	<p>The Commission acknowledges the supportive comments. No change is needed in response to these comments.</p>
<p>Arizona Consumers Council ("Council") submitted comments on its own behalf and on behalf of its more than 1,000 members, many of whom it stated are APS customers. The Council thanked the Commission for focusing on EE, asserting that EE benefits consumers</p>	<p>The Commission acknowledges the supportive comments. No change is needed in response to these comments.</p>

<sup>5</sup> PIRG stated that these supporters include hundreds of citizens from Winslow to Eloy, more than 25 organizations from the Coconino Coalition for Children & Youth in Flagstaff to the American Council of Consumer Awareness in Tucson, and more than 50 businesses from Living Systems Sustainable Architecture in Prescott to the Downtown Deli in Phoenix.

both in the short run by saving them money and in the long run by reducing environmental impacts. The Council asserted that EE may also reduce the need for utilities to make capital expenditures, thus reducing one source of upward pressure on rates. The Council cited a Consumer Federation of America study, which stated that “energy efficiency is the cornerstone to ensuring affordable energy for American households in the decades ahead . . . [because] [i]t costs so much less to save energy than it does to produce it.”<sup>6</sup> The Council expressed support for an EE standard of 20% by 2020, for availability of a wide variety of EE programs suitable for different customer classes, and for customers of all classes to have access to clear and understandable information tailored to their own needs as well as technical assistance. The Council stated that programs to help low-income customers are especially important and that innovative programs to help other customers finance more expensive EE methods should also be available.

William Scown, an individual consumer, expressed support for the 22% standard in the proposed EEE rules, stating that he is willing to pay a little more in rates for EE programs that will make the total energy bill go down. Mr. Scown stated that the proposed EEE rules will help cap production of global warming gases, displace fossil fuels, and create Arizona green jobs. Mr. Scown asserted that Arizona’s peak demand for electricity doubled between 1990 and 2005 and that the current “economic hiccup” provides an opportunity to deal with future growth, which had been forecasted to result in another doubling of peak demand between 2006 and 2025 and would have necessitated a great deal of new plant capacity, thus increasing costs to consumers, consuming scarce water resources, and contributing to air pollution and global warming. Mr. Scown asserted that 56% of electricity used in Arizona comes from coal-fired and natural gas-fired power plants, with all of the natural gas being imported from other states, which results in Arizonans spending nearly \$1 billion per year to import out-of-state energy resources. Mr. Scown asserted that the cleanest, cheapest, and fastest way to avert a crisis is to improve efficiency, which will meet the growing energy needs of the state at an

The Commission acknowledges the supportive comments.  
No change is needed in response to these comments.

<sup>6</sup> Mark Cooper, Consumer Federation of America, *Building on the Success of Energy Efficiency Programs to Ensure an Affordable Energy Future: State-by-State Savings on Residential Utility Bills from Aggressive Energy Efficiency Policies* (February 2010), at 1.

	affordable price, will conserve water, and will protect air quality.	
Rule 2409(A)(4)(g)	WRA suggested that “The environmental savings realized, including emissions and water savings” be changed to read “The environmental benefits realized, including reduced emissions and water savings” because “environmental benefits” is defined and thus clearer.	The Commission agrees that this change is appropriate and will make the rule clearer. The Commission will make this change in 2409(A)(4)(g) of the text for the Notice of Final Rulemaking.
Rule 2410	TEP/UNS stated that EE rules should not interfere with or diminish a utility’s right to recover its costs and opportunity to earn a reasonable return on its investments and that the rules should include a mechanism through which utilities can be compensated for lost revenue resulting from a decline in volumetric sales due to EE measures. TEP/UNS stated that 11 states have adopted decoupling, that eight states have decoupling cases pending, that seven more states have adopted lost revenue adjustment mechanisms (LRAMs), and that one state has an LRAM case pending. TEP/UNS proposed the following language be added to the proposed EEE rules so that the EE standard will not place a financial burden on utilities, and the interests of utilities and their customers will be aligned: “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 [Commission] 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. The affected utility shall recover the Fixed Cost Recovery Deficiency through the annual true-up of the affected utility’s DSM adjustor mechanism.”	The Commission is addressing disincentives to EE in its Incentives Docket and has been holding workshops on decoupling, which is one method to allow a utility to recover fixed costs in spite of reduced sales due to EE. In addition, the proposed EEE rules require the Commission to review and address financial disincentives, recovery of fixed costs, and recovery of net lost income/revenue in an affected utility’s rate case if the utility requests such consideration and provides supporting records/documentation. In the absence of a more global resolution of the issue, the Commission believes that a rate case is the most appropriate venue to resolve these issues for an affected utility, as it gives the Commission the opportunity to conduct a full examination of the impacts of approved DSM programs in the context of examining a utility’s complete revenues and expenses. Additionally, nothing in the proposed EEE rules would prevent an affected utility from requesting approval of an accounting order to defer unrecovered fixed costs for consideration in its next rate case. No change is needed in response to these comments.
Rules 2410 & 2411	SWEEP asserts that the Commission has been considering and addressing issues regarding disincentives to utilities’ supporting EE, cost recovery, and performance incentives in parallel proceedings in a separate docket and thus need not resolve them in this rulemaking.	The Commission agrees with this supportive comment. No change is needed in response to this comment.
	The Cooperatives disagreed with SWEEP’s assertion that the rules do not need to resolve utility fixed cost recovery and support the	The Commission reiterates its response to TEP/UNS’s similar comment. No change is needed in response to this

	<p>proposals made by utilities to allow utilities to recover fixed costs associated with the kWh saved from EE programs.</p> <p>APS agreed with TEP/UNS that the financial disincentives issue must be addressed to make the EE standard goals sustainable going forward, but disagreed that the regulatory disincentives problem needs to be resolved in this rulemaking, stating that it should instead be viewed in the full context of certain commitments made within the proposed EEE rules themselves and in other proceedings pending before the Commission. APS pointed out that Rule 2410(I) requires the Commission to review and address financial disincentives, recovery of fixed costs, and recovery of net lost income/revenue due to Commission-approved DSM programs in an affected utility's rate case if the affected utility requests such consideration and provides documentation/records supporting its request in its rate application. APS agreed with SWEEP that the Commission has been reviewing and considering issues regarding disincentives, cost recovery, and performance incentives in parallel proceedings; stated that it will continue to work with the Commission and other interested parties in the workshop process to devise appropriate means of addressing these issues; and expressed confidence that the Commission is committed to addressing the issue and will adopt the policies that will evolve from the workshops no later than an affected utility's next rate case.</p>	<p>comment.</p> <p>The Commission acknowledges the supportive comment. No change is needed in response to this comment.</p>
Rule 2411	<p>The Cooperatives stated that they do not support a profit-related performance incentive, instead desiring the regulatory flexibility to collect necessary expenses in an efficient, cost-effective, and timely manner.</p>	<p>The Commission understands that the Cooperatives are different than the other affected utilities in that they are member/customer owned and not operated for profit. As stated previously, the Commission is addressing financial disincentives in the Incentives Docket and, upon request, in rate cases. No change is needed in response to this comment.</p>
Rule 2413(A) and (C)	<p>WRA suggested that "the" should be inserted before "baseline" to make the rule clearer.</p>	<p>The Commission agrees that this change is appropriate and will make the rule clearer. The Commission is making this change in the text for the Notice of Final Rulemaking.</p>
Rule 2416	<p>APS explained that it understood that a third-party administrator would only be used if it was proven that the third-party administrator would be more efficient and effective in implementing a program. APS believes that it should implement its own programs because it is a trusted source of information for its</p>	<p>The Commission appreciates APS's explanation of its understanding of these provisions in 2416. No change is needed in response to this comment.</p>

	customers and has implemented programs successfully in the past. APS explained that even with a third-party administrator, the fixed cost issue for utilities would not go away. APS asserted that one study found no correlation between the amount of savings achieved and who administered a program and further asserted that other states have effective programs run by both. APS stated that an affected utility would pass the cost of an independent program administrator on to ratepayers as a program cost.	
Rule 2418	The Cooperatives proposed that each Cooperative be permitted to file and have its own Commission-approved EE standard by eliminating the language in Rule 2418(C) that requires the EE goal set forth in a Cooperative's implementation plan to be an EE goal for each year "of at least 75% of the savings requirement specified in R14-2-2404."	As stated previously, the Commission believes that it is appropriate to set a uniform standard to be met, as opposed to having affected utilities set their own, possibly very low, standards. The Commission included a reduced standard for the Cooperatives in the proposed EEE rules, in recognition of their being different from the other affected utilities, but does not believe that it would be appropriate to eliminate the standard altogether and leave it to the discretion of each Cooperative. No change is needed in response to this comment.
Rule 2419(B)	WRA suggested that "The affected utility" be changed to "An affected utility" to make the rule clearer.	The Commission agrees that this change is appropriate and will make the rule clearer. The Commission is making this change in the text for the Notice of Final Rulemaking.

The written comments received by the Commission concerning Staff's recommended revisions to the proposed rules (included in Staff's filing made on April 16, 2010) are included in the following table, along with the Commission response to each.

<b>Comments on Staff's Recommended Revisions to the Proposed Rules (April 16, 2010)</b>		
<b>Section</b>	<b>Public Comment</b>	<b>Commission Response</b>
Rule 2404(A) and (B)	In response to Staff's recommended changes to Rule 2404(A), which would have eliminated the reference to the affected utility's retail electric energy sales for the prior calendar year (2019), and to Rule 2404(B), which would have added a column including an annual energy efficiency standard to the table therein, APS stated that the elimination of the reference to the prior calendar year 2019 would cause uncertainty regarding to what value the 22% applies. APS stated that the 22% requirement lies at the very core of the proposed rules and is vague unless it is stated as 22% of an identified, known, or measurable value and further stated that the proposed language should be retained. APS stated that Staff's revised table in 2404(B) properly identified the columns of Annual Energy Savings and Cumulative Energy Savings and	In its filing made on June 24, 2010, Staff revised its recommendations for both Rule 2404(A) and (B). Staff now recommends that Rule 2404(A) be revised by replacing "for the prior calendar year (2019)" with "for calendar year 2019" and that Rule 2404(B) be revised by replacing the original proposed language with the following: "An affected utility shall, by the end of each calendar year, meet at least the cumulative annual energy efficiency standard listed in Table 1 for that calendar year. An illustrative example of how the required energy savings would be calculated is shown in Table 2. An illustrative example of how the standard could be met in 2020 is shown in Table 4." Staff further recommends that the table in 2404(B) be labeled Table 1, that the heading for the EE standard clarify that the standard is to be met by the end of

	thus provided some of the clarity that the revised text lacks, but that the original text of 2404(A) should be retained. APS also stated that conforming changes should be made to the first paragraph in Section B.1 of Staff's Economic, Small Business, and Consumer Impact Statement.	each calendar year, and that new Tables 2 and 4 be added. The Commission believes that Staff's new recommended changes are appropriate and that they address APS's concern that the 22% standard would be vague if not tied to a particular year. The Commission is making Staff's new recommended changes in the text for the Notice of Final Rulemaking.
Rule 2404(A)	WRA stated that Staff's recommended change states that the cumulative energy efficiency savings should be 22% by December 31, 2020, but does not state to what the 22% is to be applied. WRA recommended that no change be made to the original 2404(A).	The Commission believes that Staff's new recommended changes, described above, are appropriate and that they address WRA's concern that the 22% standard is unclear if not tied to a particular year. The Commission is making Staff's new recommended changes in the text for the Notice of Final Rulemaking.
	SWEEP stated that Staff's recommended elimination of the reference to the prior calendar year (2019) results in wording that is unclear. SWEEP stated that the original language is clear, accurate, and appropriate; that it is the language adopted by the Commission; and that it should be retained.	The Commission believes that Staff's new recommended changes, described above, are appropriate and that they address SWEEP's concern that the 22% standard is unclear if not tied to a particular year. The Commission is making Staff's new recommended changes in the text for the Notice of Final Rulemaking.
Rule 2404(B)	WRA stated that Staff's recommended changes present the standard as an annual standard instead of a cumulative standard and that the sum of the proposed annual standards is not the same as the cumulative standard in Decision No. 71436. WRA included tables showing that when the two different standards (cumulative versus annual) are applied to the same retail sales figures for 5 calendar years, the annual and cumulative savings diverge somewhat. WRA recommended that no change be made to 2404(B).	The Commission believes that Staff's new recommended changes, described above, are appropriate and that they address WRA's concern that Staff's prior recommended changes would have resulted in an annual standard as opposed to a cumulative standard. Staff's new recommended changes retain the cumulative annual EE standard (as opposed to the annual incremental standard recommended in Staff's prior recommended changes) and, by adding Tables 2 and 4, clarify how it is to be calculated. The Commission is making Staff's new recommended changes in the text for the Notice of Final Rulemaking.
	SWEEP stated that the Energy Efficiency Standard as proposed and as adopted by the Commission in Decision No. 71436 is a cumulative standard and should not be changed to an annual standard. SWEEP asserted that the level of energy savings resulting from the Staff-recommended language would not be the same as the savings under the cumulative standard included in the proposed rule. SWEEP stated that it supports the comments and analysis of WRA on this issue and that no change should be made to 2404(B).	The Commission believes that Staff's new recommended changes, described above, are appropriate and that they address SWEEP's concern that Staff's prior recommended changes would have resulted in an annual standard as opposed to a cumulative standard. Staff's new recommended changes retain the cumulative annual EE standard (as opposed to the annual incremental standard recommended in Staff's prior recommended changes) and, by adding Tables 2 and 4, clarify how it is to be calculated. The Commission is making Staff's new recommended changes in the text for the Notice of Final Rulemaking.
Rule 2414(A)	In response to Staff's recommendation to	In its filing made on June 24, 2010, Staff

	<p>replace the requirement for ratepayer-funded DSM to be developed and implemented in a fuel-neutral manner with a prohibition on ratepayer-funded DSM programs and measures that promote the replacement of existing appliances that use one fuel source with similar appliances that use another fuel source or the installation of new appliances that use another fuel source, unless the new appliance results in reduced overall energy use, APS stated that Staff's recommended change expands and provides additional detail regarding this requirement and would result in a substantive change. APS agreed with Staff's statement in the oral proceeding herein that "Fuel neutral means that ratepayer funds should not be used to promote one fuel over another," but stated that the recommended revision would allow DSM-funded fuel switching if the new appliance results in reduced overall energy use. APS stated that this would reverse the intent of the rule and that the original wording should be restored or, alternatively, the revised wording used if the language about new appliances resulting in reduced overall energy use were deleted.</p>	<p>revised its recommendations for Rule 2414(A). Staff now recommends that Rule 2414(A) be revised to read "Ratepayer-funded DSM programs shall be developed and implemented in a fuel-neutral manner, meaning that an affected utility as an administrator of DSM programs should not bias the customer's fuel choice (such as electricity or gas) toward the fuel that the affected utility provides." The Commission believes that it is appropriate to retain the original proposed language of Rule 2414(A) and to adopt the following definition of "fuel-neutral" in Rule 2401: "Fuel-neutral" means without promoting or otherwise expressing bias regarding a customer's choice of one fuel over another." These changes will be made by the Commission in the text for the Notice of Final Rulemaking.</p>
	<p>SWEEP stated that Staff's recommended clarification replaces language on fuel-neutrality with language on fuel switching, which SWEEP sees as a related but distinct and thus additional issue. SWEEP stated that developing and implementing DSM programs in a fuel-neutral manner means that a utility should remain neutral regarding the customer's fuel choice and should not bias customer decisions toward the fuel the utility provides or is associated with. SWEEP recommended that no change be made to 2414(A). SWEEP also asserted that the proper place to review specific DSM programs and the use of DSM funding is in the Commission's review of implementation plans.</p>	<p>The Commission believes that it is appropriate to retain the original proposed language of Rule 2414(A) and to adopt the following definition of "fuel-neutral" in Rule 2401: "Fuel-neutral" means without promoting or otherwise expressing bias regarding a customer's choice of one fuel over another." These changes will be made by the Commission in the text for the Notice of Final Rulemaking.</p>

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None.

**13. Incorporations by reference and their location in the rules:**

None.

**14. Was this rule previously made as an emergency rule?**

No.

**15. The full text of the rules follows:**

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;  
SECURITIES REGULATION  
CHAPTER 2. CORPORATION COMMISSION  
FIXED UTILITIES

ARTICLE 24. ELECTRIC ENERGY EFFICIENCY STANDARDS

- R14-2-2401. Definitions
- R14-2-2402. Applicability
- R14-2-2403. Goals and Objectives
- R14-2-2404. Energy Efficiency Standards
- R14-2-2405. Implementation Plans
- R14-2-2406. DSM Tariffs
- R14-2-2407. Commission Review and Approval of DSM Programs and DSM Measures
- R14-2-2408. Parity and Equity
- R14-2-2409. Reporting Requirements
- R14-2-2410. Cost Recovery
- R14-2-2411. Performance Incentives
- R14-2-2412. Cost-effectiveness
- R14-2-2413. Baseline Estimation
- R14-2-2414. Fuel Neutrality
- R14-2-2415. Monitoring, Evaluation, and Research
- R14-2-2416. Program Administration and Implementation
- R14-2-2417. Leveraging and Cooperation
- R14-2-2418. Compliance by Electric Distribution Cooperatives
- R14-2-2419. Waiver from the Provisions of this Article

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, or the conservation of energy by end-use customers.
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 compliance, or reduction in environmental impacts, for things such as, but not limited to:
  - a. Water use and water contamination;

- b. Monitoring storage and disposal of solid waste such as coal ash (bottom and fly);
  - c. Health effects from burning fossil fuels; and
  - d. Emissions from transportation and production of fuels and electricity.
22. "Fuel-neutral" means without promoting or otherwise expressing bias regarding a customer's choice of one fuel over another.
23. "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.
24. "Incremental costs" means the additional expenses of DSM measures, relative to baseline.
25. "Independent program administrator" means an impartial third party employed to provide objective oversight of energy efficiency programs.
26. "kW" means kilowatt.
27. "kWh" means kilowatt-hour.
28. "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.
29. "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.
30. "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.
31. "Market transformation" means strategic efforts to induce lasting structural or behavioral changes in the market that result in increased energy efficiency.
32. "Net benefits" means the incremental benefits resulting from DSM minus the incremental costs of DSM.
33. "Non-market benefits" means improvements in societal welfare that are not bought or sold.
34. "Program costs" means the expenses incurred by an affected utility as a result of developing, marketing, implementing, administering, and evaluating Commission-approved DSM programs.
35. "Self-direction" means an option made available to qualifying customers of sufficient size, in which the amount of money paid by each qualifying customer toward DSM costs is tracked for the customer and made available for use by the customer for approved DSM investments upon application by the customer.
36. "Societal Test" means a cost-effectiveness test of the net benefits of DSM programs that starts with the Total Resource Cost Test, but includes non-market benefits and costs to society.
37. "Staff" means individuals working for the Commission's Utilities Division, whether as employees or through contract.

38. “Thermal envelope” means the collection of building surfaces, such as walls, windows, doors, floors, ceilings, and roofs, that separate interior conditioned (heated or cooled) spaces from the exterior environment.
39. “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 R14-2-103(A)(3)(q), unless the affected utility is an electric distribution cooperative that has fewer than 25% of its customers in Arizona.

**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.** Except as provided in R14-2-2418, in order to ensure reliable electric service at reasonable ratepayer rates and costs, by December 31, 2020, an affected utility shall, through cost-effective DSM energy efficiency programs, achieve cumulative annual energy savings, measured in kWh, equivalent to at least 22% of the affected utility's retail electric energy sales for calendar year 2019.
- B.** An affected utility shall, by the end of each calendar year, meet at least the cumulative annual energy efficiency standard listed in Table 1 for that calendar year. An illustrative example of how the required energy savings would be calculated is shown in Table 2. An illustrative example of how the standard could be met in 2020 is shown in Table 4.

**Table 1. Energy Efficiency Standard**

<b><u>CALENDAR YEAR</u></b>	<b><u>ENERGY EFFICIENCY STANDARD</u></b> <b><u>(Cumulative Annual Energy Savings by the End of Each</u></b> <b><u>Calendar Year as a Percentage of the Retail Energy Sales in</u></b> <b><u>the Prior Calendar Year)</u></b>
<b><u>2011</u></b>	<b><u>1.25%</u></b>
<b><u>2012</u></b>	<b><u>3.00%</u></b>
<b><u>2013</u></b>	<b><u>5.00%</u></b>
<b><u>2014</u></b>	<b><u>7.25%</u></b>
<b><u>2015</u></b>	<b><u>9.50%</u></b>
<b><u>2016</u></b>	<b><u>12.00%</u></b>
<b><u>2017</u></b>	<b><u>14.50%</u></b>
<b><u>2018</u></b>	<b><u>17.00%</u></b>
<b><u>2019</u></b>	<b><u>19.50%</u></b>
<b><u>2020</u></b>	<b><u>22.00%</u></b>

**Table 2. Illustrative Example of Calculating Required Energy Savings**

<u>CALENDAR YEAR</u>	<u>A</u> <u>RETAIL SALES</u> <u>(kWh)</u>	<u>B</u> <u>ENERGY EFFICIENCY</u> <u>STANDARD</u>	<u>C</u> <u>REQUIRED</u> <u>CUMULATIVE</u> <u>ENERGY SAVINGS (B</u> <u>of current year</u> <u>× A of prior year)</u>
<u>2010</u>	<u>100,000,000</u>		<u>0</u>
<u>2011</u>	<u>100,750,000</u>	<u>1.25%</u>	<u>1,250,000</u>
<u>2012</u>	<u>101,017,500</u>	<u>3.00%</u>	<u>3,022,500</u>
<u>2013</u>	<u>101,069,925</u>	<u>5.00%</u>	<u>5,050,875</u>
<u>2014</u>	<u>100,915,646</u>	<u>7.25%</u>	<u>7,327,570</u>
<u>2015</u>	<u>100,821,094</u>	<u>9.50%</u>	<u>9,586,986</u>
<u>2016</u>	<u>100,517,711</u>	<u>12.00%</u>	<u>12,098,531</u>
<u>2017</u>	<u>100,293,499</u>	<u>14.50%</u>	<u>14,575,068</u>
<u>2018</u>	<u>100,116,043</u>	<u>17.00%</u>	<u>17,049,895</u>
<u>2019</u>	<u>99,986,628</u>	<u>19.50%</u>	<u>19,522,628</u>
<u>2020</u>	<u>99,902,384</u>	<u>22.00%</u>	<u>21,997,058</u>

- C.** An affected utility's measured reductions in peak demand resulting from cost-effective demand response and load management programs may comprise up to two percentage points of the 22% energy efficiency standard, with peak demand reduction capability from demand response converted to an annual energy savings equivalent based on an assumed 50% annual load factor. The credit for demand response and load management peak demand reductions shall not exceed 10% of the energy efficiency standard set forth in subsection (B) for any year. The measured reductions in peak demand occurring during a calendar year after the effective date of this Article may be counted for that calendar year even if the demand response or load management program resulting in the reductions was implemented prior to the effective date of this Article.
- D.** An affected utility's energy savings resulting from DSM energy efficiency programs implemented before the effective date of this Article, but after 2004, may be credited toward meeting the energy efficiency standard set forth in subsection (B). The total energy savings credit for these pre-rules energy efficiency programs shall not exceed 4% of the affected utility's retail energy sales in calendar year 2005. A portion of the total energy savings credit for these pre-rules energy efficiency programs may be applied each year, from 2016 through 2020, as listed in Table 3, Column A.

**Table 3. Credit for Pre-Rules Energy Savings**

<u>CALENDAR YEAR</u>	<u>A</u> <u>CREDIT FOR THE PRE-RULES</u> <u>ENERGY SAVINGS APPLIED IN</u> <u>EACH YEAR</u> <u>(Percentage of the Total Eligible Pre-</u> <u>Rules Cumulative Annual Energy</u> <u>Savings That Shall Be Applied in the</u> <u>Year)</u>	<u>B</u> <u>CUMULATIVE APPLICATION</u> <u>OF THE CREDIT FOR THE PRE-</u> <u>RULES ENERGY SAVINGS IN 2016-</u> <u>2020</u> <u>(Percentage of the Total Eligible Pre-Rules</u> <u>Cumulative Annual Energy Savings That</u> <u>Are Credited by the End of Each Year)</u>
<u>2016</u>	7.5%	7.5%
<u>2017</u>	15.0%	22.5%
<u>2018</u>	20.0%	42.5%
<u>2019</u>	25.0%	67.5%
<u>2020</u>	32.5%	100.0%

- E. An affected utility may count toward meeting the standard up to one third of the energy savings, resulting from energy efficiency building codes, that are quantified and reported through a measurement and evaluation study undertaken by the affected utility.
- F. An affected utility may count the energy savings from combined heat and power (CHP) installations that do not qualify under the Renewable Energy Standard toward meeting the energy efficiency standard.
- G. An affected utility may count a customer's energy savings resulting from self-direction toward meeting the standard.
- H. An affected utility's energy savings resulting from efficiency improvements to its delivery system may not be counted toward meeting the standard.
- I. 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.

**Table 4. Illustrative Example of How the Energy Standard Could Be Met in 2020**

	<u>2020 Energy</u> <u>Efficiency Standard</u>	<u>2019 Retail Sales</u> <u>(kWh)</u>	<u>Required Cumulative</u> <u>Annual Energy Savings</u> <u>(kWh)</u>
<u>Total</u>	22.00%	99,986,628	21,997,058
<u>Breakdown of Savings and Credits Used To Meet 2020 Standard:</u>			
			<u>Cumulative Annual</u> <u>Energy Savings or</u> <u>Credit (kWh)</u>

<b><u>Demand Response Credit</u></b> R14-2-2404(C)	<u>Up to 2.00%</u>		<u>1,999,733</u>
<b><u>Pre-rules Savings Credit</u></b> R14-2-2404(D)			<u>1,100,000*</u>
<b><u>Building Code</u></b> R14-2-2404(E)			<u>1,000,000</u>
<b><u>CHP</u></b> R14-2-2404(F)			<u>500,000</u>
<b><u>Self-Direction</u></b> R14-2-2404(G)			<u>100,000</u>
<b><u>Energy Efficiency</u></b> R14-2-2404(A)			<u>17,297,325</u>
<b><u>Total</u></b>			<u>21,997,058</u>

\* The total pre-rules savings credit is capped at 4% of 2005 retail energy sales, and the total credit is allocated over five years from 2016 to 2020. The credit shown above represents an estimate of the portion of the total credit that can be taken in 2020, or 32.5% of the total credit allowed.

**R14-2-2405. Implementation Plans**

- A.** Except as provided in R14-2-2418, on June 1 of each odd year, or annually at the election of each affected utility, 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 one or two calendar years, as applicable, except that the initial implementation plan shall be filed within 30 days of the effective date of this Article.
- 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 this Article for the previous calendar year;
  2. Except for the initial implementation plan, which 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 for the initial implementation plan, which 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 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 DSM programs to ensure consistency with this Article. The Commission shall allow affected utilities adequate time to notify customers of DSM 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 or 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 or 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 toward 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; and
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 benefits realized, including reduced 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.

**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 pursuant to R14-2-2415.

**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.
- I. The Commission shall review and address financial disincentives, recovery of fixed costs, and recovery of net lost income/revenue, due to Commission-approved DSM programs, if an affected utility requests such review in its rate case and provides documentation/records supporting its request in its rate application.
- J. An affected utility, at its own initiative, may submit to the Commission twice-annual reports on the financial impacts of its Commission-approved DSM programs, including any unrecovered fixed costs and net lost income/revenue resulting from its Commission-approved DSM programs.

**R14-2-2411. Performance Incentives**

In the implementation plans required by R14-2-2405, an affected utility may propose for Commission review a performance incentive to assist in achieving the energy efficiency standard set forth in R14-2-2404. The Commission may also consider performance incentives in a general rate case.

**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, environmental impacts, 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 the 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 the 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 DSM program planning, product development, and DSM 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 this Article.

**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.

**R14-2-2418. Compliance by Electric Distribution Cooperatives**

- A. An electric distribution cooperative that is an affected utility shall comply with the requirements of this Section instead of meeting the requirements of R14-2-2404(A) and (B) and R14-2-2405(A).
- B. An electric distribution cooperative shall, on June 1 of each odd year, or annually at its election:
1. File with Docket Control, for Commission review and approval, an implementation plan for each DSM program to be implemented or maintained during the next one or two calendar years, as applicable; and
  2. Submit to the Director of the Commission's Utilities Division an electronic copy of its implementation plan in a format suitable for posting on the Commission's website.
- C. An implementation plan submitted under subsection (B) shall set forth an energy efficiency goal for each year of at least 75% of the savings requirement specified in R14-2-2404 and shall include the information required under R14-2-2405(B).

**R14-2-2419. Waiver from the Provisions of this Article**

- A. The Commission may waive compliance with any provision of this Article for good cause.
- B. An affected utility may petition the Commission to waive its compliance with any provision of this Article for good cause.
- C. A petition filed pursuant to this Section shall have priority over other matters filed under this Article.

## ARTICLE 7. RESOURCE PLANNING AND PROCUREMENT

### R14-2-701. Definitions

The following definitions shall apply unless the context otherwise requires In this Article, unless otherwise specified:

1. ~~“Appliance efficiency”—the energy usage per unit of output of a particular type of energy using equipment.~~
2. ~~“Appliance saturation”—the proportion of customers in a given customer class who have a particular type of energy using equipment.~~
3. ~~“Average price”—revenue from the customer class divided by the number of kilowatt hours sold to that customer class.~~
4. ~~“Baseload demand”—demand for energy that is insensitive to temperature.~~
1. “Acknowledgment” means a Commission determination, under R14-2-704, that a plan meets the basic requirements of this Article.
2. “Affiliated” means related through ownership of voting securities, through contract, or otherwise in such a manner that one entity directly or indirectly controls another, is directly or indirectly controlled by another, or is under direct or indirect common control with another entity.
- 5.3. ~~“Benchmark”— means to calibrate against a known set of values or standards.~~
- 6.4. ~~“Book life”— means the expected time period over which a power supply source will be available for use by the utility a load-serving entity.~~
5. “Btu” means British thermal unit.
- 7.6. ~~“Capacity”— means the amount of electric power, measured in megawatts, which that a power source is rated to provide, either by the user, the supplier, or the manufacturer.~~
- 8.7. ~~“Capital costs”— means the construction and installation cost of facilities, including land, land rights, structures, and equipment.~~
9. ~~“Cogeneration”— the sequential production of electricity and heat, steam, or useful work from the same fuel source.~~
8. “Coincident peak” means the maximum of the sum of two or more demands that occur in the same demand interval, which demand interval may be established on an annual, monthly, or hourly basis.
- 10.9. ~~“Customer class”— means a group subset of customers categorized according to with similar characteristics, such as amount of energy consumed; amount of demand placed on the energy supply system at the system peak; hourly, daily, or seasonal load pattern; primary type of activity engaged in by the customer, including residential, commercial, industrial, agricultural, and governmental; and location. Customer classes may include residential, commercial, industrial, agricultural, municipal, and other categories.~~
- 11.10. ~~“Decommissioning”— means the process of safely and economically removing a generating unit from service.~~
12. ~~“Degree day”— the difference in degrees Fahrenheit between the reference temperature and the average temperature for a particular day. The average temperature is the high temperature plus the low temperature divided by 2. If a day’s average temperature exceeds the reference temperature, the day is a cooling degree day; if the day’s average temperature is less than the reference temperature, the day is a heating degree day.~~

- ~~13-11.~~ "Demand management"— means beneficial reduction in the total cost of meeting electric energy service needs by reducing or shifting in time ~~the demand for~~ electricity usage.
- 14-12. "Derating"— means a reduction in a generating unit's capacity.
- ~~15-13.~~ "Discount rate"— means the interest rate used to calculate the present value of a cost or other economic variable.
14. "Docket Control" means the office of the Commission that receives all official filings for entry into the Commission's public electronic docketing system.
15. "Emergency" means an unforeseen and unforeseeable condition that:
- a. Does not arise from the load-serving entity's failure to engage in good utility practices.
  - b. Is temporary in nature, and
  - c. Threatens reliability or poses another significant risk to the system.
16. "End use"— means the final application of electric energy, for activities such as, but not limited to, heating, cooling, running ~~a particular~~ an appliance, or motor, an industrial process, or lighting.
17. "Energy losses"— means the quantity of electric energy generated or purchased that is not available for sale to end users, for resale, or for use by the utility load-serving entity, ~~attributable to transmission, conversion, distribution, and unaccounted for losses.~~
18. "Escalation"— means the change in costs due to inflation, changes in manufacturing processes, changes in availability of labor or materials, or other factors.
- ~~19.~~ "~~Forced outage rate~~"— ~~the proportion of hours in a period, excluding those hours set aside for planned outages, in which a power source, such as a generating unit, suffers unplanned outages due to unplanned component failures or other conditions requiring that the source be removed from service immediately or before the next planned outage.~~
19. "Generating unit" means a specific device or set of devices that converts one form of energy (such as heat or solar energy) into electric energy, such as a turbine and generator or a set of photovoltaic cells.
20. "Heat rate"— means a measure of generating station thermal efficiency expressed in ~~British thermal units~~ (Btus) per net ~~kilowatt-hour~~ kilowatt-hour and computed by dividing the total Btu content of fuel used for electric generation by the ~~kilowatt-hours~~ kilowatt-hours of electricity generated.
- ~~21.~~ "~~Household income pattern~~"— ~~the proportion of households falling in each of several income ranges.~~
- ~~22.~~ "~~Interchange~~"— ~~electric energy received by the electric utility from another provider of electricity or supplied by the electric utility to another provider of electricity which is not purchased or sold under the terms of a long-term agreement.~~
21. "Independent monitor" means a company or consultant that is not affiliated with a load-serving entity and that is selected to oversee the conduct of a competitive procurement process under R14-2-706.
22. "Integration" means methods by which energy produced by intermittent resources can be incorporated into the electric grid.
23. "Intermittent resources" means electric power generation for which the energy production varies in response to naturally occurring processes like wind or solar intensity.

- ~~23-24.~~ "Interruptible power"– means power made available under ~~agreements which~~ an agreement that permit permits curtailment or cessation of delivery by the supplier.
- ~~24-25.~~ "In-service date"– means the date a power supply source becomes available for use by ~~the utility~~ a load-serving entity.
- ~~26.~~ "Load-serving entity" means a public service corporation that provides electricity generation service and operates or owns, in whole or in part, a generating facility or facilities with capacity of at least 50 megawatts combined.
- ~~27.~~ "Long term" means having a duration of three or more years.
- ~~25-28.~~ "Maintenance"– means the repair of generation, transmission, distribution, ~~and~~ administrative, and general facilities; replacement of minor items; and installation of materials to preserve the efficiency and working condition of the facilities.
- ~~26.~~ "Maintenance schedule"– ~~the specific days during which a power production unit is removed from service for inspection or overhaul of one or more major components; such work is planned well in advance.~~
- ~~27-29.~~ "Mothballing"– means the temporary removal of a generating unit from active service and accompanying long-term storage activities.
- ~~28-30.~~ "Operate"– means to manage or otherwise be responsible for the production of electricity ~~from~~ by a generating facility, whether that facility is owned by the operator, in whole or in part, or ~~whether that facility is owned~~ by another entity.
- ~~29.~~ "Operating costs"– ~~the power production costs that are directly related to producing electricity.~~
- ~~30-31.~~ "Participation rate"– means the proportion of customers who take part in a specific program.
- ~~31-32.~~ "Probabilistic analysis"– means a systematic evaluation of the effect, on costs, reliability, or other measures of performance, of ~~the range of~~ possible events affecting factors which that influence performance, considering the ~~chances~~ likelihood that the events will occur.
- ~~32-33.~~ "Production cost"– means the variable operating costs and maintenance cost ~~(including fuel cost)~~ costs of producing electricity through generation, including fuel cost, and plus the cost of purchases of power sufficient to meet demand.
- ~~33-34.~~ "Refurbish"– means to make major changes, more extensive than maintenance or repair, in the power production, transmission, or distribution characteristics of a component of the power supply system ~~more extensive than maintenance or repair~~, such as by changing the fuels which that can be used in a generating unit or changing the capacity of a generating unit.
- ~~34-35.~~ "Reliability"– means a measure of the ability of ~~the utility's~~ a load-serving entity's generation, transmission, and or distribution systems system to provide power without failures. ~~Reliability should be measured separately for generation, transmission, and distribution systems. Measures may to reflect the proportion portion of time that each a system is unable to meet demand or the kilowatt-hours kilowatt-hours of demand that could not be supplied.~~
- ~~36.~~ "Renewable energy resource" means an energy resource that is replaced rapidly by a natural, ongoing process and that is not nuclear or fossil fuel.

- 35-37. “Reserve requirements”– means the capacity which the utility that a load-serving entity must maintain in excess of its peak load to provide for scheduled maintenance, forced outages, unforeseen loads, emergencies, system operating requirements, and power pool requirements reserve sharing arrangements.
38. “Reserve sharing arrangement” means an agreement between two or more load-serving entities to provide backup capacity.
- 36-39. “Resource planning”– means integrated supply and demand analysis for the purpose of identifying the means of meeting electric energy service needs at the lowest total cost, taking into account uncertainty analyses completed as described in this Article.
40. “RFP” means request for proposals.
- 37-41. “Self generation”– means the production of electricity by an end user by any means including cogeneration.
- 38-42. “Sensitivity analysis”– means a systematic assessment of the degree of response of costs, reliability, or other measures of performance to changes in assumptions about factors which that influence performance.
43. “Short term” means having a duration of less than three years.
- 39-44. “Spinning reserve”– means the capacity which the utility a load-serving entity must maintain connected to the system and ready to deliver power promptly in the event of an unexpected loss of generation source. The capacity may be, expressed as a percentage of peak load, as a percentage of the largest generating unit, or as in fixed megawatts.
45. “Staff” means individuals working for the Commission’s Utilities Division, whether as employees or through contract.
46. “Third-party independent energy broker” means an entity, such as Prebon Energy or Tradition Financial Services, that facilitates an energy transaction between separate parties without taking title to the transaction.
47. “Third-party on-line trading system” means a computer-based marketplace for commodity exchanges provided by an entity that is not affiliated with the load-serving entity, such as the Intercontinental Exchange, California Independent System Operator, or New York Mercantile Exchange.
- 40-48. “Total cost”– means all capital, operating, maintenance, fuel, and decommissioning costs, plus the costs associated with mitigating any adverse environmental effects, incurred, by end users, load-serving entities, or others, in the provision or conservation of electric energy services borne by end users, utilities, or others, and any adverse environmental effects.
41. “Unit”—a specific device or set of devices that converts one form of energy (such as heat or solar energy) into electric energy such as a turbine and generator or set of photovoltaic cells; a power plant may have multiple units.
42. “Utility”—the entity providing electric service to the public.

**R14-2-702. Applicability**

- A. All electric utilities under the jurisdiction of the Commission pursuant to Arizona Constitution Art. XV and Arizona Revised Statutes Title 40 which operate or own (in part or in whole) generating facilities, whether the power generated is for sale to end users or is for resale, are subject to the provisions of this Article. This

Article applies to each load-serving entity, whether the power generated is for sale to end users or is for resale.

- B. Any other electric utility under the jurisdiction of the Commission pursuant to Arizona Constitution Art. XV and Arizona Revised Statutes Title 40 is subject to the provisions of this Article upon two years' notice by the Commission. An electricity public service corporation that becomes a load-serving entity by increasing its generating capacity to at least 50 megawatts combined shall provide written notice to the Commission within 30 days after the increase and shall comply with the filing requirements in this Article within two years after the notice is filed.
- C. The Commission may, by Order, exempt a utility load-serving entity from these requirements complying with any provision in this Article, or the Article as a whole, upon a demonstration by the utility determining that:
1. the The burden of compliance with this the provision, or the Article as a whole, exceeds the potential for cost savings resulting benefits to customers in the form of cost savings, service reliability, risk reductions, or reduced environmental impacts that would result from its participation the load-serving entity's compliance with the provision or Article; and
  2. The public interest will be served by the exemption.
- D. A load-serving entity that desires an exemption shall submit to Docket Control an application that includes, at a minimum:
1. The reasons why the burden of complying with the Article, or the specific provision in the Article for which exemption is requested, exceeds the potential benefits to customers that would result from the load-serving entity's compliance with the provision or Article;
  2. Data supporting the load-serving entity's assertions as to the burden of compliance and the potential benefits to customers that would result from compliance; and
  3. The reasons why the public interest would be served by the requested exemption.
- E. A load-serving entity shall file with Docket Control, within 120 days after the effective date of these rules, the documents that would have been due on April 1, 2010, under R14-2-703(C), (D), (E), (F), and (H) had the revisions to those subsections been effective at that time.

**R14-2-703. Utility reporting requirements Load-serving Entity Reporting Requirements**

- A. Demand side data. Each utility shall provide the Commission staff the demand data in subsections (A)(1) through (9) below, within 90 days of the effective date of these rules and shall provide staff with updated and revised data by April 1 of each year thereafter. If records are not maintained for any item, the utility shall provide its best estimates, such as sample survey data, application of factors from one year's data to another year, or other methods, and fully describe how such estimates were made. A load-serving entity shall, by April 1 of each year, file with Docket Control a compilation of the following items of demand-side data, including for each item for which no record is maintained the load-serving entity's best estimate and a full description of how the estimate was made:
1. Hourly demand for the previous calendar year, disaggregated by:
    - a. Sales to end users;

- b. Sales for resale;
  - c. Energy losses; and
  - d. Other disposition of energy, such as energy furnished without charge and energy used by the utility- load-serving entity;
2. If available, hourly demand for the previous calendar year disaggregated by:
- a. Residential customers;
  - b. Nonresidential customers by customer class and by type of business;
  - c. ~~Entitles purchasing power for resale.~~
- ~~3.2.~~ Coincident peak demand (megawatts) and energy demand consumption (megawatt hours megawatt-hours) by month for the previous 10 years, disaggregated by customer class and, for nonresidential customers, if available, disaggregated by type of business.;
- ~~4.3.~~ Number of customers by customer class by year for each of the previous 10 years; and
5. Heating and cooling degree days by month for the previous 10 years. The utility may provide these data by climatic region at its option.
- ~~6.~~ Residential customer characteristics and end use data collected in the last 10 years which the utility has available, including:
- a. Mix of dwelling unit types (single family, multi family, mobile homes);
  - b. Household income patterns;
  - c. Appliance saturation by types of appliance;
  - d. Appliance saturation by household income pattern and dwelling unit type;
  - e. End use metering data;
  - f. Appliance efficiency data;
  - g. Appliance connected load data; and
  - h. Data relating customer usage and heating and cooling degree days or temperature.
- ~~7.~~ Nonresidential customer characteristics and usage data collected in the last 10 years which the utility has available, including:
- a. Number of customers by type of business;
  - b. Number of employees by type of business;
  - c. Electricity usage by major end use of power including space cooling; and
  - d. Hourly demand for major types of industrial and commercial customers for baseload, heating, and cooling uses.
- ~~8.4.~~ Reduction in load (kilowatt and kilowatt-hours) in the previous calendar year due to existing demand management measures, by type of demand management measure, ~~in the previous calendar year.~~
9. Annual average prices of electricity charged to each nonresidential customer class, by type of business, and to residential customers, for the previous 10 years.
- B. Supply side data. Each utility shall provide the Commission staff the supply data indicated in subsection (B)(1) through (4) within 90 days of the effective date of these rules and shall provide staff with updated

and revised data by April 1 of each year thereafter. If records are not maintained for any item, the utility shall provide its best estimates and fully describe how those estimates were made. A load-serving entity shall, by April 1 of each year, file with Docket Control a compilation of the following items of supply-side data, including for each item for which no record is maintained the load-serving entity's best estimate and a full description of how the estimate was made:

1. For each generating unit and purchased power contract for the previous calendar year:
  - a. ~~In-service date and book life or contract period;~~
  - b. ~~Book life or contract period~~ Type of generating unit or contract;
  - c. ~~Capacity~~ The load-serving entity's share of the generating unit's capacity, or of capacity under the contract, in megawatts (utility share);
  - d. Maximum generating unit or contract capacity, by hour, day, or month, if such capacity varies over during the year;
  - e. ~~Forced outage rate~~ Annual capacity factor (generating units only);
  - f. Average heat rate of generating units and, if available, heat rates at selected output levels;
  - g. ~~Fuel~~ Average fuel cost for generating units, in dollars per million Btu for each type of fuel;
  - h. Other variable operating and maintenance costs for generating units, in dollars per megawatt hour;
  - i. Purchased power energy costs for ~~contract purchases~~ long-term contracts, in dollars per megawatt-hour megawatt-hour;
  - j. Fixed operating and maintenance costs of generating units, in dollars per megawatt ~~for the year;~~
  - k. Demand charges for purchased power;
  - l. ~~Fuel types for generating units;~~ Fuel type for each generating unit;
  - m. Minimum capacity at which the generating unit would be run or power must be purchased;
  - n. Whether, under standard operating procedures, the generating unit must be run if it is available to run;
  - o. ~~Maintenance schedules for generating units;~~ Description of each generating unit as base load, intermediate, or peaking;
  - p. ~~Other data related to generation units and purchased power contracts which the utility uses in its production, planning, and supply models.~~ Environmental impacts, including air emission quantities (in metric tons or pounds) and rates (in quantities per megawatt-hour) for carbon dioxide, nitrogen oxides, sulfur dioxide, mercury, particulates, and other air emissions subject to current or expected future environmental regulation;
  - q. Water consumption quantities and rates; and
  - r. Tons of coal ash produced per generating unit;

2. For the power supply system for the previous calendar year:
  - a. A description of generating unit commitment procedures;
  - b. Production cost;
  - c. Reserve requirements;
  - d. Spinning reserve;
  - e. Reliability of generating, transmission, and distribution systems;
  - f. ~~Interchange purchase~~ Purchase and sale prices, averaged by month, for the aggregate of all purchases and sales related to short-term contracts; and
  - g. Energy losses;
3. The level of ~~eogeneration and other forms of self~~ generation in the utility's load-serving entity's service area for the previous calendar year; and
4. ~~As available, a description and map of the utility's transmission system, including the capacity of each segment of the transmission system. An explanation of any resource procurement processes used by the load-serving entity during the previous calendar year that did not include use of an RFP, including the exception under which the process was used.~~

C. ~~Demand forecasts. Each utility shall provide the following data and analyses to the Commission by December 31, 1989, and every three years thereafter. If no changes are forecast for any item, the utility may refer to previous filings for that item. A load-serving entity shall, by April 1 of each even year, file with Docket Control a compilation of the following items of load data and analyses, which may include a reference to the last filing made under this subsection for each item for which there has been no change in forecast since the last filing:~~

1. ~~Ten-year~~ Fifteen-year forecast of system coincident peak load (megawatts) and energy demanded consumption (~~megawatt hours~~ megawatt-hours) by month and year, expressed separately for residential, commercial, industrial, ~~interruptible~~, and other ~~customers~~, customer classes; for interruptible power; for resale; and for energy losses;
2. Hourly demand forecasts for 10 years, if requested by staff.
3. ~~2.~~ Disaggregation of the demand load forecast of subsection (C)(1) into a component in which no additional demand management measures are assumed, and a component ~~indicating~~ assuming the change in load due to additional forecasted demand management measures; and
4. ~~Descriptions of demand management programs and measures included in the demand forecast, including:~~
  - a. ~~Plans for implementing the demand management measures;~~
  - b. ~~The participation rate of customers by customer class with regard to each demand management measure,~~
  - c. ~~The expected change in demand resulting from each of the measures, and~~
  - d. ~~The life of each program.~~
5. ~~Description of each demand management program which was considered but rejected and the reasons for rejecting each program.~~

- 6. ~~The capital and operating and maintenance costs of each demand management measure considered, including practical measures which were rejected.~~
- 7.3. Documentation of all sources of data, analyses, methods, and assumptions used in making the demand load forecasts, including:
  - a. ~~— A a description of how the forecasts were benchmarked, and~~
  - b. ~~— Justifications justifications for selecting the methods and assumptions used, and~~
  - c. ~~— If requested by the staff, data used in the analyses.~~

D. ~~Supply plans. Each utility shall provide the following data and analyses to the Commission by December 31, 1989, and every three years thereafter. If no changes are forecast for any item, the utility may refer to previous filings for that item. A load-serving entity shall, by April 1 of each even year, file with Docket Control the following prospective analyses and plans, which shall compare a wide range of resource options and take into consideration expected duty cycles, cost projections, other analyses required under this Section, environmental impacts, and water consumption and may include a reference to the last filing made under this subsection for each item for which there has been no change since the last filing:~~

- 1. ~~Ten-year A 15-year resource plan,~~ providing for each year:
  - a. ~~The data required in subsection (B)(1)(a) through (p) of this Section~~ Projected data for each of the items listed in subsection (B)(1), for each generating unit and purchased power source, including each generating unit that is expected to be new or refurbished during the period, which shall be designated as new or refurbished, as applicable, for the year of purchase or the period of refurbishment; and
  - b. ~~the data required in subsection (B)(2)(a) through (g) of this Section.~~ Projected data for each of the items listed in subsection (B)(2), for the power supply system;
  - b-c. ~~For~~ The capital cost, construction time, and construction spending schedule for each generating unit that is expected to be new or refurbished during the period;
    - i. ~~The data required in subsection (B)(1) of this Section for applicable years, and~~
    - ii. ~~The capital cost, construction time, and construction spending schedule.~~
  - e-d. The escalation levels assumed for each component of cost, such as, but not limited to, operating and maintenance, environmental compliance, system integration, backup capacity, and transmission delivery, for each generating unit and purchased power source;
  - d-e. ~~For the~~ If discontinuation, decommissioning, or mothballing of any power source and or permanent deratings derating of any generating facility is expected:
    - i. Identification of the each power sources source or units generating unit involved;
    - ii. The costs and spending schedule ~~of such~~ for each discontinuation, decommissioning, mothballing, or derating; and
    - iii. The reasons for each discontinuation, decommissioning, mothballing, or derating;

- e.f. The capital costs and operating and maintenance costs of all new or refurbished transmission and distribution facilities expected during the 15-year period, and;
  - g. a description An explanation of the need for and purpose of such all expected new or refurbished transmission and distribution facilities, which explanation shall incorporate the load-serving entity's most recent transmission plan filed under A.R.S. § 40-360.02(A) and any relevant provisions of the Commission's most recent Biennial Transmission Assessment decision regarding the adequacy of transmission facilities in Arizona; and
  - h. Cost analyses and cost projections, including the cost of compliance with existing and expected environmental regulations;
2. Documentation of the data, assumptions, and methods or models used to forecast production costs and power production in subsection (D)(1) of this Section for the 15-year resource plan, including the method by which the forecast was calibrated or benchmarked;
  3. Description A description of:
    - a. each Each potential power source which that was rejected;
    - b. the The capital costs, and operating costs, and maintenance costs of each rejected source;  
and
    - c. the The reasons for rejecting each source;
  4. Ten-year A 15-year forecast of eogeneration and other self generation by customers of the utility load-serving entity, in terms of annual peak production (megawatts) and annual energy production (megawatt-hours megawatt-hours);
  5. Disaggregation of the forecast of subsection (D)(4) of this Section into a component in which two components, one reflecting the self generation projected if no additional efforts are made to encourage such generation self generation, and a component consisting of one reflecting the change in supply due to self generation projected to result from the load-serving entity's institution of additional forecasted eogeneration and self generation measures;
  6. Ten-year A 15-year forecast of the annual capital costs and operating and maintenance costs by year of all the eogeneration and other self generation included in subsection (D)(5) of this Section identified under subsections (D)(4) and (D)(5);
  7. Documentation of the analysis of the eogeneration and other self generation in subsection under subsections (D)(4) through (6) of this Section;
  8. A plan that considers using a wide range of resources and promotes fuel and technology diversity within its portfolio;
  9. A calculation of the benefits of generation using renewable energy resources;
  10. A plan that factors in the delivered cost of all resource options, including costs associated with environmental compliance, system integration, backup capacity, and transmission delivery;
  11. Analysis of integration costs for intermittent resources;
  12. A plan to increase the efficiency of the load-serving entity's generation using fossil fuel;
  13. Data to support technology choices for supply-side resources;

14. A description of the demand management programs or measures included in the 15-year resource plan, including for each demand management program or measure:
  - a. How and when the program or measure will be implemented;
  - b. The projected participation level by customer class for the program or measure;
  - c. The expected change in peak demand and energy consumption resulting from the program or measure;
  - d. The expected reductions in environmental impacts, including air emissions, solid waste, and water consumption, attributable to the program or measure;
  - e. The expected societal benefits, societal costs, and cost-effectiveness of the program or measure;
  - f. The expected life of the measure; and
  - g. The capital costs, operating costs, and maintenance costs of the measure, and the program costs;
15. For each demand management measure that was considered but rejected:
  - a. A description of the measure;
  - b. The estimated change in peak demand and energy consumption from the measure;
  - c. The estimated cost-effectiveness of the measure;
  - d. The capital costs, operating costs, and maintenance costs of the measure, and the program costs; and
  - e. The reasons for rejecting the measure;
16. Analysis of future fuel supplies that are part of the resource plan; and
17. A plan for reducing environmental impacts related to air emissions, solid waste, and other environmental factors, and for reducing water consumption.

E. Analyses of uncertainty. Each utility shall provide to the Commission the following information by December 31, 1989, and every three years thereafter: A load-serving entity shall, by April 1 of each even year, file with Docket Control a compilation of the following analyses and plan:

1. Analyses to identify and assess errors, risks, and uncertainties in the following, completed using appropriate methods such as sensitivity analyses analysis and probabilistic analyses analysis, to assess errors and uncertainty in:
  - a. Demand forecasts;
  - b. The costs of demand management measures and power supply;
  - c. The availability of sources of power;
  - d. The costs of compliance with existing and expected environmental regulations;
  - e. Any analysis by the load-serving entity in anticipation of potential new or enhanced environmental regulations;
  - d.f. Changes in fuel prices, and availability;
  - g. Construction costs, capital costs, and operating costs; and
  - e.h. Other factors which the utility load-serving entity wishes to consider;

2. Identification of those options which enable the utility to best respond to significant changes in conditions whose future characteristics are uncertain, including:
  - a. Continual monitoring of critical variables and making commensurate changes in plans if those variables deviate significantly from the forecast;
  - b. Building several smaller units instead of one large unit;
  - c. Sharing capacity with other utilities; and
  - d. Conducting well-monitored pilot programs.

2. A description and analysis of available means for managing the errors, risks, and uncertainties identified and analyzed in subsection (E)(1), such as obtaining additional information, limiting risk exposure, using incentives, creating additional options, incorporating flexibility, and participating in regional generation and transmission projects; and

3. A plan to manage the errors, risks, and uncertainties identified and analyzed in subsection (E)(1).

F. Integrated resource plan. Each utility shall provide the Commission with an integrated resource plan by December 31, 1989, and every three years thereafter containing:

1. The 10-year plan or flexible set of plans which, on the basis of the analyses required in this Article, including the uncertainty analysis, will tend to minimize the present value of the total cost of meeting the demand for electric energy services.
2. Complete description and documentation of the least cost plan, including supply and demand side conditions, costs, and discount rates utilized.
3. An action plan indicating the supply and demand-related actions to be undertaken by the utility over the next three years in furtherance of the ten-year plan.

F. A load-serving entity shall, by April 1 of each even year, file with Docket Control a 15-year resource plan that:

1. Selects a portfolio of resources based upon comprehensive consideration of a wide range of supply- and demand-side options;
2. Will result in the load-serving entity's reliably serving the demand for electric energy services;
3. Will address the adverse environmental impacts of power production;
4. Will include renewable energy resources to meet or exceed the greater of the Annual Renewable Energy Requirement in R14-2-1804 or the following annual percentages of retail kWh sold by the load-serving entity:

<u>Calendar Year</u>	<u>Percentage of Retail kWh Sold During Calendar Year</u>
<u>2010</u>	<u>2.5%</u>
<u>2011</u>	<u>3.0%</u>
<u>2012</u>	<u>3.5%</u>
<u>2013</u>	<u>4.0%</u>
<u>2014</u>	<u>4.5%</u>

<u>2015</u>	<u>5.0%</u>
<u>2016</u>	<u>6.0%</u>
<u>2017</u>	<u>7.0%</u>
<u>2018</u>	<u>8.0%</u>
<u>2019</u>	<u>9.0%</u>
<u>2020</u>	<u>10.0%</u>
<u>2021</u>	<u>11.0%</u>
<u>2022</u>	<u>12.0%</u>
<u>2023</u>	<u>13.0%</u>
<u>2024</u>	<u>14.0%</u>
<u>after 2024</u>	<u>15.0%</u>

5. Will include distributed generation energy resources to meet or exceed the greater of the Distributed Renewable Energy Requirement in R14-2-1805 or the following annual percentages as applied to the load-serving entity's Annual Renewable Energy Requirement:

<u>2007</u>	<u>5%</u>
<u>2008</u>	<u>10%</u>
<u>2009</u>	<u>15%</u>
<u>2010</u>	<u>20%</u>
<u>2011</u>	<u>25%</u>
<u>After 2011</u>	<u>30%</u>

6. Will address energy efficiency so as to meet any requirements set in rule by the Commission or in an order of the Commission;
7. Will effectively manage the uncertainty and risks associated with costs, environmental impacts, load forecasts, and other factors;
8. Will achieve a reasonable long-term total cost, taking into consideration the objectives set forth in subsections (F)(2) through (7) and the uncertainty of future costs; and
9. Contains all of the following:
- a. A complete description and documentation of the plan, including supply and demand conditions, availability of transmission, costs, and discount rates utilized;
  - b. A comprehensive, self-explanatory load and resources table summarizing the plan;
  - c. A brief executive summary;
  - d. An index to indicate where the responses to each filing requirement of these rules can be found; and
  - e. Definitions of the terms used in the plan.

G. A load-serving entity shall, by April 1 of each odd year, file with Docket Control a work plan that includes:

- 1. An outline of the contents of the resource plan the load-serving entity is developing to be filed the following year as required under subsection (F);

2. The load-serving entity's method for assessing potential resources;
3. The sources of the load-serving entity's current assumptions; and
4. An outline of the timing and extent of public participation and advisory group meetings the load-serving entity intends to hold before completing and filing the resource plan.

H. With its resource plan, a load-serving entity shall include an action plan, based on the results of the resource planning process, that:

1. Includes a summary of actions to be taken on future resource acquisitions;
2. Includes details on resource types, resources capacity, and resource timing; and
3. Covers the three-year period following the Commission's acknowledgment of the resource plan.

I. A load-serving entity or interested party may provide, for the Commission's consideration, analyses and supporting data pertaining to environmental impacts associated with the generation or delivery of electricity, which may include monetized estimates of environmental impacts that are not included as costs for compliance. Values or factors for compliance costs, environmental impacts, or monetization of environmental impacts may be developed and reviewed by the Commission in other proceedings or stakeholder workshops.

J. If a load-serving entity's submission does not contain sufficient information to allow Staff to analyze the submission fully for compliance with this Article, Staff shall request additional information from the load-serving entity, including the data used in the load-serving entity's analyses.

K. Staff may request that a load-serving entity complete additional analyses to improve specified components of the load-serving entity's submissions.

L. If a load-serving entity believes that a data-reporting requirement may result in disclosure of confidential business data or confidential electricity infrastructure information, the load-serving entity may submit to Staff a request that the data be submitted to Staff under a confidentiality agreement, which request shall include an explanation justifying the confidential treatment of the data.

M. Data protected by a confidentiality agreement shall not be submitted to Docket Control and will not be open to public inspection or otherwise made public except upon an order of the Commission entered after written notice to the load-serving entity.

**R14-2-704. Commission review of utility plans Review of Load-serving Entity Resource Plans**

A. Within 120 days of the submission of demand forecasts, supply plans, uncertainty analyses, and integrated resource plans by the utilities, the Commission shall schedule a hearing or hearings to review utility filings and to determine the degree of consistency between these filings and analyses conducted by the staff and information provided by other parties. By October 1 of each even year, Staff shall file a report that contains its analysis and conclusions regarding its statewide review and assessments of the load-serving entities' filings made under R14-2-703(C), (D), (E), (F), and (H).

B. The Commission may request additional analyses to be conducted by the utilities to improve specified components of the utilities' analyses. By February 1 of each odd year, the Commission shall issue an order acknowledging a load-serving entity's resource plan or issue an order stating the reasons for not acknowledging the resource plan. The Commission shall order an acknowledgment of a load-serving

entity's resource plan, with or without amendment, if the Commission determines that the resource plan, as amended if applicable, complies with the requirements of this Article and that the load-serving entity's resource plan is reasonable and in the public interest, based on the information available to the Commission at the time and considering the following factors:

- ~~C.~~ In making its consistency determination, the Commission shall consider the following factors:
1. The total cost of electric energy services;
  2. The degree to which the factors which that affect demand, including demand management, have been taken into account;
  3. The degree to which ~~non-utility~~ supply alternatives, such as ~~co~~generation and self generation, have been taken into account;
  4. Uncertainty in demand and supply analyses, forecasts, and plans, and ~~the flexibility of plans enabling response~~ whether plans are sufficiently flexible to enable the load-serving entity to respond to unforeseen changes in supply and demand factors;
  5. The reliability of power supplies, including fuel diversity and non-cost considerations;
  6. The reliability of the transmission grid;
  7. The environmental impacts of resource choices and alternatives;
  8. The degree to which the load-serving entity considered all relevant resources, risks, and uncertainties;
  9. The degree to which the load-serving entity's plan for future resources is in the best interest of its customers;
  10. The best combination of expected costs and associated risks for the load-serving entity and its customers; and
  11. The degree to which the load-serving entity's resource plan allows for coordinated efforts with other load-serving entities.
- C. The Commission may hold a hearing or workshop regarding a load-serving entity's resource plan. If the Commission holds such a hearing or workshop, the Commission may extend the February 1 deadline for the Commission to issue an order regarding acknowledgment under subsection (B).
- D. While no particular future ratemaking treatment is implied by or shall be inferred from the Commission's acknowledgment, ~~The the~~ Commission may ~~subsequently~~ shall consider its consistency determination in its review of financing applications, in general rate cases, and in other matters in which the supply of or demand for energy services is a significant factor a load-serving entity's filings made under R14-2-703 when the Commission evaluates the performance of the load-serving entity in subsequent rate cases and other proceedings.
- E. A load-serving entity may seek Commission approval of specific resource planning actions.
- F. A load-serving entity may file an amendment to an acknowledged resource plan if changes in conditions or assumptions necessitate a material change in the load-serving entity's plan before the next resource plan is due to be filed.

**R14-2-705. Procurement**

A. Except as provided in subsection (B), a load-serving entity may use the following procurement methods for the wholesale acquisition of energy, capacity, and physical power hedge transactions:

1. Purchase through a third-party online trading system;
2. Purchase from a third-party independent energy broker;
3. Purchase from a non-affiliated entity through auction or an RFP process;
4. Bilateral contract with a non-affiliated entity;
5. Bilateral contract with an affiliated entity, provided that non-affiliated entities were provided notice and an opportunity to compete against the affiliated entity's proposal before the transaction was executed; and
6. Any other competitive procurement process approved by the Commission.

B. A load-serving entity shall use an RFP process as its primary acquisition process for the wholesale acquisition of energy and capacity, unless one of the following exceptions applies:

1. The load-serving entity is experiencing an emergency;
2. The load-serving entity needs to make a short-term acquisition to maintain system reliability;
3. The load-serving entity needs to acquire other components of energy procurement, such as fuel, fuel transportation, and transmission projects;
4. The load-serving entity's planning horizon is two years or less;
5. The transaction presents the load-serving entity a genuine, unanticipated opportunity to acquire a power supply resource at a clear and significant discount, compared to the cost of acquiring new generating facilities, and will provide unique value to the load-serving entity's customers;
6. The transaction is necessary for the load-serving entity to satisfy an obligation under the Renewable Energy Standard rules; or
7. The transaction is necessary for the load-serving entity's demand-side management or demand response programs.

C. A load-serving entity shall engage an independent monitor to oversee all RFP processes for procurement of new resources.

**R14-2-706. Independent Monitor Selection and Responsibilities**

A. When a load-serving entity contemplates engaging in an RFP process, the load-serving entity shall consult with Staff regarding the identity of companies or consultants that could serve as independent monitor for the RFP process.

B. After consulting with Staff, a load-serving entity shall create a vendor list of three to five candidates to serve as independent monitor and shall file the vendor list with Docket Control to allow interested persons time to review and file objections to the vendor list.

C. An interested person shall file with Docket Control, within 30 days after a vendor list is filed with Docket Control, any objection that the interested person may have to a candidate's inclusion on a vendor list.

D. Within 60 days after a vendor list is filed with Docket Control, Staff shall issue a notice identifying each candidate on the vendor list that Staff has determined to be qualified to serve as independent monitor for

- the contemplated RFP process. In making its determination, Staff shall consider the experience of the candidates, the professional reputation of the candidates, and any objections filed by interested persons.
- E. A load-serving entity that has completed the actions required by subsections (A) and (B) to comply with a particular Commission Decision is deemed to have complied with subsections (A) and (B) and is not required to repeat those actions.
- F. A load-serving entity may retain as independent monitor for the contemplated RFP process and for its future RFP processes any of the candidates identified in Staff's notice.
- G. A load-serving entity shall file with Docket Control a written notice of its retention of an independent monitor.
- H. A load-serving entity is responsible for paying the independent monitor for its services and may charge a reasonable bidder's fee to each bidder in the RFP process to help offset the cost of the independent monitor's services. A load-serving entity may request recovery of the cost of the independent monitor's services, to the extent that the cost is not offset by bidder's fees, in a subsequent rate case. The Commission shall use its discretion in determining whether to allow the cost to be recovered through customer rates.
- I. One week prior to the deadline for submitting bids, a load-serving entity shall provide the independent monitor a copy of any bid proposal prepared by the load-serving entity or entity affiliated with the load-serving entity and of any benchmark or reference cost the load-serving entity has developed for use in evaluating bids. The independent monitor shall take steps to secure the load-serving entity's bid proposal and any benchmark or reference cost so that they are inaccessible to any bidder, the load-serving entity, and any entity affiliated with the load-serving entity.
- J. Upon Staff's request, the independent monitor shall provide status reports to Staff throughout the RFP process.

B. Economic, Small Business and Consumer Impact Statement

1. Identification of the proposed rule making.

The rules are new Sections under Title 14, Chapter 2 - Corporation Commission, Fixed Utilities. Rules R14-2-2401 through R14-2-2419 require affected utilities, by December 31, 2020, to achieve cumulative annual energy savings, measured in kilowatt-hours, equivalent to at least 22 percent of the affected utility's retail electric energy sales for calendar year 2019.

The purpose of Electric Energy Efficiency Standards is for affected utilities to achieve energy savings through cost-effective energy efficiency programs in order to ensure reliable electric service at reasonable rates and costs. Energy efficiency means the production or delivery of an equivalent level and quality of end-use electric service using less energy, or the conservation of energy by end-use customers.

Requiring affected utilities to achieve energy savings through cost-effective energy efficiency programs is an essential part of the Commission's efforts to meet its constitutional obligation to "prescribe just and reasonable rates and charges to be made and collected ... by public service corporations within the State for service rendered therein because the amount of energy consumed by an affected utility's customers, and the pattern of peak usage of those customers, directly impacts the physical assets that an affected utility must have in place as well as the affected utility's operating expenses. Reducing the overall consumption of energy can reduce fuel costs, purchased power costs, new capacity costs, transmission costs, distribution costs, and adverse environmental impacts (such as water consumption and air emissions). Even reducing peak demand without reducing overall consumption can reduce fuel costs, purchased power costs, and new capacity costs because not as much plant or purchased power is needed at peak times to meet customers' needs.

Energy efficiency is a reliable energy resource that costs less than other resources for meeting the energy needs of utility ratepayers. Increasing energy efficiency to meet the Energy Efficiency Standard set forth in the Electric Energy Efficiency Standards rules will reduce the total cost of energy for affected utilities' ratepayers. Increasing energy efficiency will result in less air pollution, reduced carbon emissions, less consumption of water, and fewer other adverse environmental impacts than would occur if energy efficiency is not increased. Increasing energy efficiency will reduce affected utilities' costs of compliance with current and future environmental regulations. Increasing energy efficiency will reduce load growth, diversify energy resources, and enhance the reliability of the electric grid, thereby reducing the pressure on and costs of electric distribution and transmission.

The Rules apply to affected utilities, as defined in the Rules. The public service corporations to whom the proposed Electric Energy Efficiency Standards rules apply, because they are affected utilities classified as Class A under A.A.C. R14-2-103(A)(3)(q) and are not electric distribution cooperatives with fewer than 25 percent of their customers in Arizona, are Arizona Public Service Company, Graham County Electric

Cooperative, Mohave Electric Cooperative, Morenci Water and Electric, Navopache Electric Cooperative, Sulphur Springs Valley Electric Cooperative, Tucson Electric Power Company, Trico Electric Cooperative, and UNS Electric. None of these entities is a small business under A.R.S. § 41-1001.

2. Persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rule making.
  - a. the public at large;
  - b. consumers of electric service in Arizona;
  - c. electric public service corporations;
  - d. Arizona Corporation Commission;
  - e. manufacturers, distributors, and installers of energy efficiency measures; and
  - f. public entities, such as schools, cities, counties, and state agencies.
3. Cost-benefit analysis.
  - a. Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rule making.

Probable costs to the Commission of the proposed rule making would include costs associated with reviewing filings, and participating in meetings and hearings.

To the extent that the implementing agency and other agencies are customers of affected utilities and install energy efficiency measures, probable costs will include initial costs for the measures. Benefits will include lower utility bills than without these rules.

- b. Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rule making.

To the extent that political subdivisions are customers of affected utilities and install energy efficiency measures, probable costs will include initial costs for the measures. Benefits will include lower utility bills than without these rules. Political subdivisions may also benefit by increased sales tax revenues resulting from sales of energy efficient products.

- c. Probable costs and benefits to businesses directly affected by the proposed rule making, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rule making.

Affected utilities may incur additional costs of complying with program development, program implementation, and reporting activities. Although some of the affected utilities are now engaging in some of the required activities, they may incur additional costs of complying with the rules. Payroll expenditures of affected utilities may be increased. These costs may be recovered through the affected utilities' rates to customers. Other

costs may include penalties that may be imposed for failing to comply with the rules. Revenues of affected utilities may be reduced temporarily. Affected utilities will benefit from reduced costs for generation or procurement of electricity.

Arizona currently has a monopoly market structure for electric utilities. The Commission generally sets rates for the electric utilities using the following formula:  $(\text{Rate Base} \times \text{Rate of Return}) + \text{Expenses} = \text{Revenue Requirement}$ . "Rate Base" is the dollar value of the physical assets prudently acquired and used and useful in the provision of utility service. "Rate of Return" is the authorized return on the utility's rate base and is expressed as a percentage. "Expenses" are the reasonable and prudent costs of service that cannot be capitalized, such as purchased power costs, fuel costs, salaries, and taxes. The resulting "Revenue Requirement" is the amount that a utility is authorized to collect from its customers through its rates and that the rates adopted by the Commission are designed to produce. Thus, the rates that a utility is authorized to charge its customers are inextricably related to the amount of physical assets (such as generation plant facilities) used by the utility and the costs of service incurred by the utility (such as costs of purchasing power to meet peak load and the costs of the fuel sources used to generate electricity).

The proposed Electric Energy Efficiency Standards rules will impact an affected utility's revenues, at least in the interim period before the affected utility's next rate case, because demand-side management ("DSM") measures and DSM programs must be designed to accomplish energy efficiency (which reduces energy consumption), load management (which reduces peak demand or improves system operating efficiency), or demand response (which affects the timing or quantity of customer demand and usage and thus can reduce energy consumption). Currently, affected utilities' rate schemes rely heavily upon volumetric rates, meaning that the amount a customer is billed by the affected utility is based in large part upon the level of energy (kWh) consumed by the customer during the billing period. If that amount is reduced by the customer's decreased consumption resulting from DSM measures/DSM programs, the affected utility's revenues will be impacted accordingly. Rule R14-2-2410(I) requires that this impact be addressed in an affected utility's rate case, if the affected utility requests to have it addressed and provides documentation/records supporting its request.

If an affected utility is permitted to recover the costs of compliance with the proposed Electric Energy Efficiency Standards rules through ratemaking (because the costs of compliance are included as reasonable and prudent expenses and are consistent with the requirements imposed under Rule 2410(A)), the affected utility's revenue requirement will be impacted. Likewise, if an affected utility is permitted to recover its fixed costs and/or its net lost income/revenue resulting from Commission-approved DSM programs (as contemplated under R14-2-2410(I)), the affected utility's revenue requirement will be impacted. When an affected utility's revenue requirement is impacted, the rates charged to its customers are also impacted.

4. Probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the proposed rule making.

The Commission and affected utilities may need additional employees or contractors. Manufacturers, distributors, and installers of energy efficiency measures may add employees. No impact on employment in political subdivisions is expected.

5. Probable impact of the proposed rule making on small businesses.

a. Identification of the small businesses subject to the proposed rule making.

To the extent that small businesses are customers of affected utilities and install energy efficiency measures, probable costs will include initial costs for the measures. Benefits will include lower utility bills than without these rules.

Only public service corporations that have annual operating revenue exceeding \$5,000,000 (Class A electric utilities) will be required to comply with the rules. These entities are unlikely to be small businesses.

b. Administrative and other costs required for compliance with the proposed rule making.

None.

c. A description of the methods that the agency may use to reduce the impact on small businesses.

Not applicable.

d. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rule making.

The public at large will benefit from increased energy efficiency because energy efficiency reduces the need for electric generation. This results in fewer adverse impacts on air, land, and water than producing electricity.

The reduction in overall energy consumption that will result from the rules should result in long-term cost savings to the affected utilities and thus to their customers because of decreased demand for generation and increased electric grid reliability and cost stability. In addition, the reduction in overall energy consumption will result in decreased adverse environmental impacts, such as air emissions, coal ash, nuclear waste, and water consumption, which should result in benefits to the public at large that cannot be adequately quantified at this time. The rules' requirement for each DSM program to be cost-effective will help to ensure that the programs adopted under the rules will result in long-term incremental benefits to all impacted groups.

6. Probable effect on state revenues.

There may be an increase in state revenues from sales taxes on energy efficiency products. However, there may be a decrease in revenues from sales taxes on electricity bills as customers reduce their consumption. There may also be increases in income taxes resulting from revenue increases of Arizona manufacturers, distributors, and installers of energy efficiency measures.

7. Less intrusive or less costly alternative methods of achieving the purpose of the proposed rule making.

The Commission is unaware of any alternative methods of achieving the purpose of the rule making that would be less intrusive or less costly.

8. If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms.

The data used to compile the information set forth in subsection B are reasonably adequate for these purposes.