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ARIZONA CORPORATION COMMISSION

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MEMORANDUM

AZ CORP COMMISSION
DOCKET CONTROL

TO: Docket Control

Arizona Corporation Commission

FROM: Dawn A. Wilson *DAW*
Paralegal
Legal Division

DOCKETED

DEC 21 2010

DATE: December 21, 2010

DOCKETED BY

A handwritten signature in black ink, appearing to be "DAW".

RE: NOTICE OF SUBMISSION OF PROPOSED GAS ENERGY EFFICIENCY RULES RULEMAKING PACKET WITH ATTORNEY GENERAL'S OFFICE (DOCKET NO. RG-00000B-09-0428)

Pursuant to A.R.S. § 41-1044,¹ 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. 72042
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. 72042.

¹ 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. AEPCO*, 207 Ariz. 95, 115 (App. 2004).

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ERNEST G. JOHNSON
Executive Director

**ARIZONA CORPORATION
COMMISSION**

December 20, 2010

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

ATTENTION: Mark Wilson

RE: Arizona Corporation Commission
Gas Energy Efficiency Rules, Docket No. RG-00000B-09-0428

Dear Attorney General Goddard:

Pursuant to A.R.S. § 41-1044,¹ the Arizona Corporation Commission ("Commission") is pleased to submit the enclosed rulemaking packet ("Rules Package") adopting Gas Energy Efficiency Standards. The Rules Package consists of:

- Commission Decision No. 72042 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 25, "Gas Utility Energy Efficiency Standards," in Title 14, Chapter 2 of the Arizona Administrative Code ("A.A.C.") ("GEE Rules"). The new rules are applicable to Class A utilities that provide gas utility service to retail customers in Arizona and require them to achieve therm or therm equivalent savings through demand-side management ("DSM") and renewable energy resource technology ("RET") programs beginning in 2011. The rules' purpose of achieving energy savings through cost-

¹ 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).

effective energy efficiency programs is designed to ensure reliable gas service at reasonable rates and costs.

The rules prescribe goals and objectives for DSM programs; establish gas 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 and RET programs; require parity and equity for DSM programs, cost allocation, and use of DSM funds; establish affected utility annual reporting requirements; establish requirements for DSM and RET program cost recovery; require the Commission to review and address in a rate case, upon request and submission of adequate documentation/records to support the request, financial or other disincentives, recovery of fixed costs, and recovery of net lost income/revenue resulting from Commission-approved DSM and RET programs; establish requirements for DSM program and measure cost-effectiveness and standards to analyze cost-effectiveness; prescribe a general standard for baseline estimation; require fuel neutrality in ratepayer-funded DSM; require monitoring and evaluation of DSM and RET programs and measure and allow research; allow for third-party program administration and implementation; encourage leveraging and cooperation; establish alternative energy efficiency standards for gas distribution cooperatives; establish alternative energy efficiency standards for propane companies; and allow an affected utility to petition for a waiver from any provision in the Article for good cause.

The Commission initiated this rulemaking in Decision No. 71855. The Notice of Rulemaking Docket Opening and Notice of Proposed Rulemaking were published in the Arizona Administrative Register on September 17, 2010. After consideration of written comments from interested parties, and public comments, the Commission issued Decision No. 72042 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. 72042 states that "[r]equiring affected utilities to achieve energy savings through DSM and RET 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 gas consumed by an affected utility's customers, and the pattern of usage by those customers, directly impacts the physical assets that an affected utility must have in place and the amount of pipeline capacity it must reserve, as well as the affected utility's operating expenses." Decision No. 72042 at ¶ 36. In that these rules are necessary for effective ratemaking, the Commission believes that it has the constitutional authority to enact the GEE 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. 72042 attached hereto.

I. The Commission's Plenary and Exclusive Ratemaking Authority Is Directly Implicated In The New Gas Utility 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 GEE rules will impact the amount of gas consumed by an affected utility's customers and the pattern of usage by 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 the amount of pipeline capacity) it must reserve. The increased conservation of energy by end-use customers under these new GEE rules will impact the affected utility's rate base (as a result of lost income/revenue) and expenses (likely by lowering overall consumption of gas and should result in energy savings). Cost effective energy efficiency is less expensive than other resources for meeting the energy needs of utility ratepayers. Increasing energy efficiency will result in less air pollution, reduced carbon emissions, and fewer other adverse environmental impacts than would occur if energy efficiency is not increase.² Thus, the Commission's ratemaking authority is directly implicated by the GEE standards which in many cases will likely have a substantial impact upon a utility's rate base 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:

² Decision No. 72042 at ¶ 36.

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, 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). 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 GEE 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. 72042 that "[g]as utilities' continued reliance on existing energy resources without increasing energy efficiency to meet the Energy Efficiency Standard set forth in the GEE rules is inadequate and insufficient to promote and safeguard the

bestowing no additional powers on the Commission than those already granted by the Arizona Constitution or specifically granted elsewhere by the legislature. *Id.*

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 GEE rules.

V. The GEE Rules Are Not Subject to the Rulemaking Moratorium.

Laws 2009, Chapter 7, § 28 (3rd 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.⁶

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.⁷

VI. Conclusion.

Collectively, the Rules Package establishes a coherent process for receiving the information necessary for the Commission to ensure that gas 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

⁶ (Moratorium subsections (B)(4)).

⁷ Decision No. 72042 at ¶ 51.

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> |
|-----------------------------|--------------------------|
| Article 25 | New Section |
| R14-2-2501 | New Section |
| R14-2-2502 | New Section |
| R14-2-2503 | New Section |
| R14-2-2504 | New Section |
| R14-2-2505 | New Section |
| R14-2-2506 | New Section |
| R14-2-2507 | New Section |
| R14-2-2508 | New Section |
| R14-2-2509 | New Section |
| R14-2-2510 | New Section |
| R14-2-2511 | New Section |
| R14-2-2512 | New Section |
| R14-2-2513 | New Section |
| R14-2-2514 | New Section |
| R14-2-2515 | New Section |
| R14-2-2516 | New Section |
| R14-2-2517 | New Section |
| R14-2-2518 | New Section |
| R14-2-2519 | New Section |
| R14-2-2520 | 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: September 17, 2010
Notice of Proposed Rulemaking: September 17, 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: mscott@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

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

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

Cost-effective energy efficiency is less expensive than burning gas and produces less impact on the environment.

By December 31, 2020, the proposed rule would require affected utilities to achieve cumulative annual energy savings, expressed as therms or therm equivalents, equal to at least 6% of the affected utility's retail gas energy sales for calendar year 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:

1. Identification of the rule making.

The rules are new Sections under Title 14, Chapter 2 - Corporation Commission, Fixed Utilities. Rules R14-2-2501 through R14-2-2520 require affected utilities, by December 31, 2020, to achieve cumulative annual energy savings, expressed as therms or therm equivalents, equal to at least 6 percent of the affected utility's retail gas energy sales for calendar year 2019.

The rulemaking is designed to change gas utilities' longstanding practice of serving their customers' energy needs solely through providing gas service, without using energy efficiency as a resource or encouraging use of renewable energy resources. The harms resulting from the continuation of this practice include an increased need for infrastructure to distribute gas, an increased need for pipeline capacity, increased greenhouse gas emissions, increased costs to comply with environmental regulations, and ultimately depletion of gas supplies. The harms are very likely to occur without this rulemaking, as gas utilities currently have an incentive to sell increased quantities of gas to increase revenues. The Commission expects the affected utilities to make long-term, likely permanent, changes to their practices to comply with the rules.

The purpose of Gas Utility Energy Efficiency Standards is for affected utilities to achieve therm or therm equivalent savings through demand-side management ("DSM") and renewable energy resource technology application ("RET") programs in order to ensure reliable gas service at

reasonable rates and costs. Energy efficiency means the production or delivery of an equivalent level and quality of end-use gas service using less energy, or the conservation of energy by end-use customers. DSM programs promote materials, devices, technologies, educational programs, practices or facility alterations designed to result in increased energy efficiency, including combined heat and power used to displace space heating, water heating or another load. RET programs promote technology applications that utilize an energy resource that is replaced rapidly by a natural, ongoing process, and that displaces conventional energy resources.

Requiring affected utilities to achieve energy savings through DSM and RET 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 gas consumed by an affected utility's customers, and the pattern of usage by those customers, directly impacts the physical assets that an affected utility must have in place and the amount of pipeline capacity it must reserve, as well as the affected utility's operating expenses. Decreasing the overall consumption of energy can reduce gas costs, infrastructure costs, and distribution costs, and, in addition, reduce adverse environmental impacts (such as air emissions).

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 Gas Utility 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, 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 diversify energy resources, reduce the overall cost of reserving pipeline capacity, and reduce the need for additional infrastructure to distribute gas.

The Rules apply to affected utilities, as defined in the Rules. The public service corporations to whom the Gas Utility Energy Efficiency Standards rules currently apply, because they are affected utilities classified as Class A under A.A.C. R14-2-103(A)(3)(q), are Southwest Gas Corporation, UNS Gas, Inc., and SemStream Arizona Propane (Payson Division). 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 rule making.*

- a. the public at large;
- b. consumers of gas service in Arizona;
- c. gas public service corporations;
- d. Arizona Corporation Commission;
- e. manufacturers, distributors, and installers of DSM measures;
- f. manufacturers, distributors, and installers of RET equipment; and
- g. 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 rule making.

Probable costs to the Commission of the rule making would include costs associated with reviewing filings, and participating in meetings and hearings. While the Commission's Utilities Division will experience an increased workload as a result of the rules, the Commission does not at this time anticipate adding any full-time employees to implement and enforce the rules.

To the extent that the implementing agency and other agencies are customers of affected utilities and install DSM measures or RET equipment, probable costs will include initial costs for the measures or equipment. 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 rule making.

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

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

Arizona currently has a monopoly market structure for gas utilities. The Commission generally sets rates for the gas 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 pipelines) used by the utility and the costs of service incurred by the utility (such as costs related to distribution).

The Gas Utility 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 DSM and RET programs may reduce therm 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 number of therms consumed by the customer during the billing period. If that amount is reduced by the customer's decreased consumption resulting from DSM and RET programs, the affected utility's revenues will be impacted accordingly. Rule R14-2-2511 requires that this impact be reviewed and addressed in an affected utility's rate case, if the affected utility requests to have it addressed and provides adequate documentation/records supporting its request.

If an affected utility is permitted to recover the costs of compliance with the Gas Utility 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 R14-2-2510(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 and RET programs

(as contemplated under R14-2-2511), 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 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 rule making on small businesses.*

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

To the extent that small businesses are customers of affected utilities and install DSM measures or RET equipment, 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 gas utilities) will be required to comply with the rules. These entities are not small businesses.

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

The public at large will benefit from increased energy efficiency because energy efficiency reduces the need for gas and the infrastructure needed to deliver it. This results in fewer adverse environmental impacts than transporting, distributing, and using gas.

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 gas and gas transportation. In addition, the reduction in overall energy consumption will result in decreased adverse environmental impacts, such as air emissions, which should result in benefits to the public at large that cannot be adequately quantified at this time.

6. *Probable effect on state revenues.*

There may be an increase in state revenues from sales taxes on DSM and RET products. However, there may be a decrease in revenues from sales taxes on gas 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 DSM measures and RET equipment.

7. *Less intrusive or less costly alternative methods of achieving the purpose of the 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:

In the Table of Contents for the Article, a period was added after "R14-2-2519."

In Rule 2501(14), the words "and RET" were added after "DSM" in the definition of the term "energy efficiency standard."

In Rule 2503(B), subsection (B)(I) was moved to follow the other two subsections and the qualifier, "If a DSM program," was added at its beginning.

In Rule 2504, Tables 2 and 4 were revised to make conforming changes.

In Rule 2504 Table 4, the reference under "Self-direction" was corrected to read "R14-2-2504(F)."

Rule 2504(C) was reworded for clarity.

Rule 2504(E) was reworded for clarity.

In Rule 2504(F), "energy efficiency" was inserted before "standard."

In the second sentence of Rule 2504(G), "energy efficiency" was inserted before "standard," and "clearly" was deleted.

In Rule 2504(H), "energy efficiency" was inserted before "standard."

In Rule 2504(I), "an energy efficiency or RET measure" was replaced with "a DSM measure or RET."

In Rule 2505(B)(4), "each DSM and RET measure and DSM and RET program" was replaced with "each DSM measure and program and each RET and RET program."

In Rule 2505(B)(6), "each new DSM and RET program and measure" was replaced with "each new DSM measure and program and each RET and RET program."

In Rule 2507(A), "a new DSM or RET program" was revised to read as "a new DSM program or measure or a new RET program or RET."

In Rule 2507(B), "DSM or RET program" was revised to read as "DSM program or measure or an RET program or RET" to be consistent with the change in Rule 2507(A).

In Rule 2507(C)(1)-(4), (8), and (11)-(13), "DSM or RET program or measure" was revised to read as "DSM program or measure or RET program or RET."

In Rule 2507(C)(6),(7), and (9), "For DSM" was added at the beginning of the subsection.

In Rule 2507(C), a new subsection (C)(6) was added to read "For a DSM program or measure:" and subsections (C)(6), (7), and (9), were rearranged and relabeled as subsections (C)(6)(a), (b), and (c), with conforming changes made to the other subsections in (C) and to add an "and" at the end of the new subsection (C)(6)(b).

In Rule 2509(A)(4) and (B), "DSM and RET program and measure" was revised to read as "DSM program and measure and RET program and RET."

In Rule 2509(A)(4)(1), "DSM or RET program or measure" was revised to read as "DSM program or measure or RET program or RET."

In Rule 2510(A) and (C), "DSM or RET program or measure" was revised to read as "DSM program or measure or RET program or RET" in each place it appeared.

In Rule 2510(B), "DSM and RET program or measure" was revised to read as "DSM program or measure and each RET program or RET."

In Rule 2510(D), "and measures" was deleted.

In Rule 2515(A), "DSM and RET program and measure" was revised to read as "DSM program and measure and each RET program and RET."

In Rule 2515(A)(3) and (4), Rule 2516(A), and Rule 2517(A), "DSM or RET program or measure" was revised to read as "DSM program or measure or RET program or RET."

In Rule 2515(A)(5), "DSM and RET programs and measures" was revised to read as "DSM programs and measures and RET programs and RETs."

In Rule 2517(B), "DSM or RET program or measure" was revised to read as "DSM program or measure or RET program or RET," and "the program or measure" was revised to read as "the DSM program or measure or RET program or RET."

Both Rule 2518(B)(1) and Rule 2519(B)(1) were reworded for clarity.

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 GEE Rules Generally	The Southwest Energy Efficiency Project ("SWEEP") expressed strong support for the proposed GEE rules and urged the Commission to adopt them because they will lower costs for gas utility ratepayers and will ensure reliable utility service at just and reasonable rates. SWEEP asserted that the rules are in the public interest because increasing energy efficiency as set forth in the rules will provide significant, cost-effective benefits to Arizona gas utility ratepayers (both residential and commercial), the utility system,	The Commission acknowledges and agrees with the supportive comments. Staff agrees with SWEEP's assertions regarding why the proposed GEE rules are in the public interest and the benefits to be derived from them. (See Tr. at 26.) No change is needed in response to these comments.

	<p>the economy, and the environment. SWEEP asserted that increasing energy efficiency will lower gas bills, diversify energy resources, reduce air pollution and emissions, and create jobs and improve the Arizona economy. SWEEP explained that energy efficiency is a reliable energy resource that costs less than other resources for meeting gas utility ratepayers' energy needs. SWEEP also pointed out that the GEE rules' requirement for energy efficiency measures and programs to be cost-effective, coupled with the rules' requirement for affected utilities to evaluate and report their programs' actual savings, benefits, and costs, will result in lower total energy costs for ratepayers. SWEEP also stated that the Commission's review and consideration of utility disincentives to energy efficiency, of cost recovery, and of performance incentives in parallel proceedings and workshops is appropriate and should not delay final adoption of the GEE rules.</p>	
	<p>The Sierra Club-Grand Canyon Chapter (on behalf of itself and Arizona Interfaith Power and Light; Arizona Alliance for Retired Americans; Grand Canyon Trust; Republicans for Environmental Protection; Natural Capitalism Solutions, Inc.; Environment Arizona; American Council on Consumer Awareness; Arizona Consumers Council; Arizona PIRG Education Fund; Democratic Processes Center; Gem Marketing Pearls, Inc.; High Performance Building Technology Team; Physicians for Social Responsibility-Arizona Chapter; and Sustainable Arizona) expressed support and appreciation for the Commission's significant commitment to increasing energy efficiency and promoting clean renewable energy, which will help Arizona reduce its emissions of air pollutants and greenhouse gases, while benefitting consumers by saving energy and energy dollars. The Sierra Club stated that many of its members have natural gas service that will be affected by the rules and will see the economic benefits, while all Arizonans will realize the environmental and societal benefits. The Sierra Club stated that the environmental benefits will include cleaner air as a result of reductions in oxides of nitrogen and reduced greenhouse gas emissions, including carbon dioxide and methane, a powerful greenhouse gas emitted when natural gas does not burn completely. The Sierra Club further asserted that by requiring investment in energy efficiency measures, the rules will help to create jobs, which are critical in the current economy.</p>	<p>The Commission acknowledges the supportive comment. No change is needed in response to this comment.</p>

	Southwest Gas stated that all of the clarifications discussed at the oral proceeding appeared to be pretty reasonable.	The Commission acknowledges the supportive comment. No change is needed in response to this comment.
	UNS Gas stated that it is fine with the rules as written and did not have any additional comments regarding the edits discussed at the oral proceeding.	The Commission acknowledges the supportive comment. No change is needed in response to this comment.
R14-2504(A) and (B)	The Sierra Club (on behalf of itself and the 14 other organizations listed above) stated that a standard to achieve 6% energy savings by 2020 is a reasonable standard for Arizona. The Sierra Club stated that increasing energy efficiency as proposed in the GEE rules will provide cost-effective benefits to gas utility ratepayers, in both residential and business customer classes, and that the benefits are cost effective in that Arizonans will benefit from lower gas bills in return for a reasonable investment.	The Commission acknowledges the supportive comment. No change is needed in response to this comment.
R14-2-2504(A) through (C)	SWEEP asserted that the proposed Energy Efficiency Standard of 6% energy savings by 2020, with at least 4.5 percentage points coming from energy efficiency programs, is appropriate because of Arizona's small amount of gas heating load, and is an ambitious, but reasonable and achievable standard.	The Commission acknowledges the supportive comment. No change is needed in response to this comment.
R14-2-2504(C)	The Sierra Club (on behalf of itself and the 14 other organizations listed above) stated that it supports the requirement for three-quarters of the counted energy savings each year to come from energy efficiency programs.	The Commission acknowledges the supportive comment. No change is needed in response to this comment.
R14-2-2504, Tables 2 and 4	SWEEP supports Staff's recommended changes to Tables 2 and 4, as included in Staff Response I.	The Commission acknowledges the supportive comment. Tables 2 and 4 are being modified as recommended by Staff and SWEEP.
R14-2-2504(E)	The Sierra Club (on behalf of itself and the 14 other organizations listed above) stated that it supports the provision that allows an affected utility credit for energy savings from energy efficiency building codes and appliance standards only if the utility demonstrates and documents its efforts to support the adoption and implementation of the building codes and appliance standards.	The Commission acknowledges the supportive comment. No change is needed in response to this comment.
	At the oral proceeding, SWEEP supported clarifying the language of 2504(E) as discussed and supported the rule's requiring measurement and evaluation studies to support the savings from energy efficiency building codes or appliance standards and allowing an affected utility to claim up to one third of those energy savings as credit toward the energy efficiency standard if the affected utility contributed to the adoption or implementation of the building codes or appliance standards.	The Commission acknowledges the supportive comment. 2504(E) is being modified as discussed in the oral proceeding to make the subsection more clear, concise, and understandable

	<p>SWEEP also explained that the measurement and evaluation studies are often conducted by third-party evaluation contractors to ensure objectivity and independence, although the utilities are able to conduct the analysis themselves for smaller programs with smaller amounts of analyses to be done and would administer the studies if performed by contractors. SWEEP also explained that the cost for the studies would be funded by the same DSM energy efficiency program funds used for programs. In response to a question from Commissioner Newman, SWEEP also discussed techniques used for evaluation and measurement and the timing related thereto.</p>	
	<p>At the oral proceeding, Southwest Gas supported the comments made by Staff and SWEEP regarding the use of measurement and evaluation studies, both as to requiring use of such studies and not needing to define the term in the rules. Southwest Gas stated that the term is understood by the affected utilities.</p>	<p>The Commission acknowledges the supportive comment. No change is needed in response to this comment.</p>
	<p>UNS Gas stated that it does not believe it necessary to define the term "measurement and evaluation study" because the term is understood by the affected utilities.</p>	<p>The Commission agrees with UNS Gas and is not defining the term in the rules.</p>
R14-2-2507(A)	<p>SWEEP commented that it agreed with Staff's recommendation that 2507(A) be clarified expressly to include DSM measures and RETs, in addition to DSM and RET programs.</p>	<p>The Commission acknowledges the supportive comment. 2507(A) is being modified expressly to include DSM measures and RETs, as recommended by Staff and SWEEP.</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 25. GAS UTILITY ENERGY EFFICIENCY STANDARDS

- R14-2-2501. Definitions
- R14-2-2502. Applicability
- R14-2-2503. Goals and Objectives
- R14-2-2504. Energy Efficiency Standards
- R14-2-2505. Implementation Plans
- R14-2-2506. DSM Tariffs
- R14-2-2507. Commission Review and Approval of DSM and RET Programs
- R14-2-2508. Parity and Equity
- R14-2-2509. Reporting Requirements
- R14-2-2510. Cost Recovery
- R14-2-2511. Revenue Decoupling
- R14-2-2512. Cost-effectiveness
- R14-2-2513. Baseline Estimation
- R14-2-2514. Fuel Neutrality
- R14-2-2515. Monitoring, Evaluation, and Research
- R14-2-2516. Program Administration and Implementation
- R14-2-2517. Leveraging and Cooperation
- R14-2-2518. Compliance by Gas Distribution Cooperatives
- R14-2-2519. Compliance by Propane Companies
- R14-2-2520. Waiver from the Provisions of this Article

ARTICLE 25. GAS UTILITY ENERGY EFFICIENCY STANDARDS

R14-2-2501. 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 gas utility service to retail customers in Arizona.
3. "Baseline" means the level of gas demand, gas consumption, and associated expenses estimated to occur in the absence of a specific DSM program, determined as provided in R14-2-2513.
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 R14-2-2512.
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 gas energy to its customers.
9. "DSM" means demand-side management, the implementation and maintenance of one or more DSM programs.
10. "DSM measure" means any material, device, technology, educational program, practice, or facility alteration designed to result in increased energy efficiency and includes CHP used to displace space heating, water heating, or another load.
11. "DSM program" means one or more DSM measures provided as part of a single offering to customers.
12. "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.
13. "Energy efficiency" means the production or delivery of an equivalent level and quality of end-use gas service using less energy, or the conservation of energy by end-use customers.
14. "Energy efficiency standard" means the reduction in retail energy sales, in percentage of therms or therm equivalents, required to be achieved through an affected utility's approved DSM and RET programs as prescribed in R14-2-2504.
15. "Energy savings" means the reduction in a customer's energy consumption, expressed in therms or therm equivalents.
16. "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.

17. “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.
18. “Fuel-neutral” means without promoting or otherwise expressing bias regarding a customer’s choice of one fuel over another.
19. “Gas” means either natural gas or propane.
20. “Gas utility” means a public service corporation providing natural gas service or propane service to the public.
21. “Incremental benefits” means amounts saved through avoiding costs for gas purchases, delivery system, and other cost items necessary to provide gas utility service, along with other improvements in societal welfare, such as through avoided environmental impacts, including, but not limited to, water consumption savings, water contamination reduction, air emission reduction, reduction in coal ash, and reduction of nuclear waste.
22. “Incremental costs” means the additional expenses of DSM measures, relative to baseline.
23. “Independent program administrator” means an impartial third party employed to provide objective oversight of DSM and RET programs.
24. “kWh” means kilowatt-hour.
25. “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.
26. “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.
27. “Market transformation” means strategic efforts to induce lasting structural or behavioral changes in the market that result in increased energy efficiency.
28. “Net benefits” means the incremental benefits resulting from DSM minus the incremental costs of DSM.
29. “Non-market benefits” means improvements in societal welfare that are not bought or sold.
30. “Program costs” means the expenses incurred by an affected utility as a result of developing, marketing, implementing, administering, and evaluating Commission-approved DSM programs.
31. “RET” means a renewable energy resource technology application utilizing an energy resource that is replaced rapidly by a natural, ongoing process and that displaces conventional energy resources otherwise used to provide energy to an affected utility’s Arizona customers.
32. “RET program” means one or more RETs provided as part of a single offering to customers.
33. “Revenue decoupling” means a mechanism that reduces or eliminates the connection between sales volume and the recovery of an affected utility’s Commission-approved cost of service.

34. “Self-direction” means an option made available to qualifying customers of sufficient size, in which the amount of money paid by each qualifying customer 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.
35. “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.
36. “Staff” means individuals working for the Commission's Utilities Division, whether as employees or through contract.
37. “Therm” means a unit of heat energy equal to 100,000 British Thermal Units.
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. “Therm equivalent” means a unit of energy, such as kWh, converted and stated in terms of therms.
40. “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.

R14-2-2502. Applicability

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

R14-2-2503. Goals and Objectives

- A.** An affected utility shall design each DSM program to be cost-effective.
- B.** An affected utility shall consider the following when planning and implementing a DSM or RET program:
1. Whether the DSM or RET program will advance market transformation and achieve sustainable savings, reducing the need for future market interventions;
 2. Whether the affected utility can ensure a level of funding adequate to sustain the DSM or RET program and allow the program to achieve its targeted goals; and
 3. If a DSM program, whether the DSM program will achieve cost-effective energy savings.
- 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.

R14-2-2504. Energy Efficiency Standards

- A.** Except as provided in R14-2-2518 and R14-2-2519, in order to ensure reliable gas service at reasonable ratepayer rates and costs, by December 31, 2020, an affected utility shall, through DSM and RET programs, achieve cumulative annual energy savings, expressed as therms or therm equivalents, equal to at least 6% of the affected utility's retail gas 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 can be met in 2020 is shown in Table 4.

Table 1. Energy Efficiency Standard

<u>CALENDAR YEAR</u>	<u>ENERGY EFFICIENCY STANDARD</u> (Cumulative Annual Energy Savings by the End of Each Calendar Year as a Percentage of the Retail Energy Sales in the Prior Calendar Year)
	<u>2011</u>
<u>2012</u>	1.20%
<u>2013</u>	1.80%
<u>2014</u>	2.40%
<u>2015</u>	3.00%
<u>2016</u>	3.60%
<u>2017</u>	4.20%
<u>2018</u>	4.80%
<u>2019</u>	5.40%
<u>2020</u>	6.00%

Table 2. Illustrative Example of Calculating Required Energy Savings

<u>CALENDAR YEAR</u>	<u>A</u> <u>RETAIL SALES</u> (therms)	<u>B</u> <u>ENERGY EFFICIENCY</u> <u>STANDARD</u>	<u>C</u> <u>REQUIRED</u> <u>CUMULATIVE</u> <u>ENERGY SAVINGS</u> (therms or therm equivalents) (B of current year × A of prior year)
<u>2010</u>	100,000,000		0
<u>2011</u>	97,500,000	0.50%	500,000
<u>2012</u>	94,870,000	1.20%	1,170,000
<u>2013</u>	92,411,540	1.80%	1,707,660
<u>2014</u>	90,018,939	2.40%	2,217,877
<u>2015</u>	87,691,512	3.00%	2,700,568
<u>2016</u>	85,427,344	3.60%	3,156,894
<u>2017</u>	83,224,605	4.20%	3,587,948
<u>2018</u>	81,081,521	4.80%	3,994,781
<u>2019</u>	78,996,374	5.40%	4,378,402

<u>2020</u>	<u>76,967,498</u>	<u>6.00%</u>	<u>4,739,782</u>
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- C.** An affected utility may count energy savings resulting from DSM and RET programs to meet the energy efficiency standard. At least 75% of the energy efficiency standard for each year listed in Table 1 shall be achieved through DSM energy efficiency programs.
- 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 DSM programs shall not exceed 1% of the affected utility's retail energy sales in calendar year 2005. A portion of the total energy savings credit for these pre-rules 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 CREDIT FOR THE PRE-RULES ENERGY SAVINGS APPLIED IN EACH YEAR (Percentage of the Total Eligible Pre- rules Cumulative Annual Energy Savings That Shall Be Applied in the Year)</u>	<u>B CUMULATIVE APPLICATION OF THE CREDIT FOR THE PRE-RULES ENERGY SAVINGS IN 2016-2020 (Percentage of the Total Eligible Pre-rules Cumulative Annual Energy Savings That Are Credited by the End of Each Year)</u>
<u>2016</u>	<u>7.5%</u>	<u>7.5%</u>
<u>2017</u>	<u>15.0%</u>	<u>22.5%</u>
<u>2018</u>	<u>20.0%</u>	<u>42.5%</u>
<u>2019</u>	<u>25.0%</u>	<u>67.5%</u>
<u>2020</u>	<u>32.5%</u>	<u>100.0%</u>

- E.** An affected utility may count toward meeting the energy efficiency standard up to one-third of the energy savings resulting from energy efficiency building codes and up to one-third of the energy savings resulting from energy efficiency appliance standards, if the energy savings are quantified and reported through a measurement and evaluation study undertaken by the affected utility, and the affected utility demonstrates and documents its efforts in support of the adoption or implementation of the energy efficiency building codes and appliance standards.
- F.** An affected utility may count a customer's energy savings resulting from self-direction toward meeting the energy efficiency standard.
- G.** An affected utility may count toward meeting the energy efficiency standard all energy savings resulting from the affected utility's sponsorship of RET projects that displace gas. An affected utility may also count toward meeting the energy efficiency standard all energy savings resulting from other RET projects that are

not sponsored by the affected utility, if the affected utility can demonstrate that its efforts facilitated the placement and completion of the RET project.

- H. An affected utility's energy savings resulting from efficiency improvements to its delivery system may not be counted toward meeting the energy efficiency 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 measure or RET 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 Efficiency Standard</u>	<u>2019 Retail Sales (therms)</u>	<u>Required Cumulative Annual Energy Savings (therms or therm equivalents)</u>
Total	<u>6.00%</u>	<u>78,996,374</u>	<u>4,739,782</u>
Breakdown of Savings and Credits Used To Meet 2020 Standard:			
			<u>Cumulative Annual Energy Savings Or Credit (therms)</u>
<u>Pre-rules Savings Credit</u> R14-2-2504(D)			<u>359,545*</u>
<u>Building Codes and Appliance Standards</u> R14-2-2504(E)			<u>425,000</u>
<u>Self-direction</u> R14-2-2504(F)			<u>27,000</u>
<u>RET</u> R14-2-2504(G)			<u>25,000</u>
<u>CHP</u> R14-2-2501(10) and R14-2-2504(C)			<u>135,000</u>
<u>Energy Efficiency</u> R14-2-2504(C)	<u>At least 75%</u>		<u>3,768,237</u>
Total			<u>4,739,782</u>

* The total pre-rules savings credit shall be capped at 1% 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.

R14-2-2505. Implementation Plans

- A. Except as provided in R14-2-2518 and R14-2-2519, 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 and RET program to be newly implemented or continued in the next two calendar years and an estimate of the annual therm or therm equivalent savings projected to be obtained through each DSM and RET program;
 4. The estimated total cost and cost per therm reduction of each DSM measure and program and each RET and RET program described in subsection (B)(3);
 5. A DSM tariff filing complying with R14-2-2506(A) or a request to modify and reset an adjustment mechanism complying with R14-2-2506(C), as applicable; and
 6. For each new DSM measure and program and each RET and RET program that the affected utility desires to implement, a program proposal complying with R14-2-2507.
- C.** An affected utility shall notify its customers of its implementation plan filing through a notice in its next regularly scheduled customer bills following the filing of the implementation plan.
- 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 and RET programs authorized thereunder, shall continue in effect until the Commission takes action on a new implementation plan for the affected utility.

R14-2-2506. 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 and RET 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 R14-2-312(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 and RET 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).

R14-2-2507. Commission Review and Approval of DSM and RET Programs

- A. An affected utility shall obtain Commission approval before implementing a new DSM program or measure or a new RET program or RET.
- B. An affected utility may apply for Commission approval of a DSM program or measure or an RET program or RET by submitting a program proposal either as part of its implementation plan submitted under R14-2-2505 or through a separate application.
- C. A program proposal shall include the following:
1. A description of the DSM program or measure or RET program or RET that the affected utility desires to implement;
 2. The affected utility's objectives and rationale for the DSM program or measure or RET program or RET;
 3. A description of the market segment at which the DSM program or measure or RET program or RET is aimed;
 4. An estimated level of customer participation in the DSM program or measure or RET program or RET;
 5. An estimate of the baseline;
 6. For a DSM program or measure:
 - a. The estimated societal benefits and savings from the DSM program or measure,
 - b. The estimated societal costs of the DSM program or measure, and
 - c. The estimated benefit-cost ratio of the DSM program or measure;
 7. The estimated environmental benefits to be derived from the DSM program or measure or RET program or RET;
 8. The affected utility's marketing and delivery strategy;
 9. The affected utility's estimated annual costs and budget for the DSM program or measure or RET program or RET;
 10. The implementation schedule for the DSM program or measure or RET program or RET;
 11. A description of the affected utility's plan for monitoring and evaluating the DSM program or measure or RET program or RET; and
 12. Any other information that the Commission believes is relevant to the Commission's consideration of the 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 measure will meet the goal set forth in R14-2-2503(A), and
 2. All of the considerations set forth in R14-2-2503(B).
- E. Staff may request modifications of on-going DSM and RET programs to ensure consistency with this Article. The Commission shall allow affected utilities adequate time to notify customers of DSM and RET program modifications.

R14-2-2508. 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 and RET 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 and RET programs by payment through a non-bypassable mechanism, unless a customer or customer class is specifically exempted by Commission order.

R14-2-2509. Reporting Requirements

- A. By April 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 and RET programs 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 and RET programs, 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 and measure and RET program and RET:
 - 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 therm equivalents, as appropriate;

- g. The environmental benefits realized;
- 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 measure or RET program or RET and the proposed date of termination.

B. By October 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 measure and RET program and RET 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.

R14-2-2510. Cost Recovery

A. An affected utility may recover the costs that it incurs in planning, designing, implementing, and evaluating a DSM program or measure or RET program or RET if the DSM program or measure or RET program or RET 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, pursuant to R14-2-2515.

B. An affected utility shall monitor and evaluate each DSM program or measure and each RET program or RET, as provided in R14-2-2515.

C. If an affected utility determines that a DSM program or measure is not cost-effective or that a DSM program or measure or RET program or RET does not meet expectations, the affected utility shall include in its annual DSM progress report filed under R14-2-2509 a proposal to modify or terminate the DSM program or measure or RET program or RET.

D. An affected utility shall recover its DSM and RET costs concurrently, on an annual basis, with the spending for DSM and RET programs, 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 or RET programs:

- 1. Incremental labor attributable to DSM and RET development,
- 2. A market study,
- 3. A research and development project such as applied technology assessment,
- 4. Consortium membership, or

- 5. Other items that are difficult to allocate to an individual DSM or RET 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 or RET 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 and RET costs in accordance with generally accepted accounting principles.
- I. An affected utility, at its own initiative, may submit to the Commission twice-annual reports on the financial impacts of its Commission-approved DSM and RET programs, including any unrecovered fixed costs and net lost income/revenue resulting from its Commission-approved DSM and RET programs.

R14-2-2511. Revenue Decoupling

The Commission shall review and address financial or other disincentives, recovery of fixed costs, and recovery of net lost income/revenue, including, but not limited to, implementation of a revenue decoupling mechanism, due to Commission-approved DSM and RET programs, if an affected utility requests such review in its rate case and provides adequate documentation/records supporting its request in its rate application.

R14-2-2512. Cost-effectiveness

- A. An affected utility shall ensure that the incremental benefits to society of the affected utility's overall group of DSM programs exceed the incremental costs to society of the overall group of DSM programs.
- 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 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 resulting from implementation of DSM programs, 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.

R14-2-2513. Baseline Estimation

- A. To determine the baseline, an affected utility shall estimate the level of gas demand and consumption and the associated costs that would have occurred in the absence of a DSM program.
- B. For installations or applications that have multiple fuel choices, an affected utility shall determine the baseline using the same fuel source that would have actually been used for the installation or application in the absence of a DSM program.

R14-2-2514. 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 gas customers for gas DSM programs, unless otherwise ordered by the Commission.
- C. An affected utility may use DSM funds collected from gas customers for thermal envelope improvements.

R14-2-2515. Monitoring, Evaluation, and Research

- A. An affected utility shall monitor and evaluate each DSM program and measure and each RET program and RET to:
 - 1. Ensure compliance with the cost-effectiveness requirements for DSM programs in R14-2-2512;
 - 2. Determine participation rates, energy savings, and demand reductions;
 - 3. Assess the implementation process for the DSM program or measure or RET program or RET;
 - 4. Obtain information on whether to continue, modify, or terminate a DSM program or measure or RET program or RET; and
 - 5. Determine the persistence and reliability of the affected utility's DSM programs and measures and RET programs and RETs.
- B. An affected utility may conduct evaluation and research, such as market studies, market research, and other technical research, for DSM and RET program planning, product development, and DSM and RET program improvement.

R14-2-2516. Program Administration and Implementation

- A. An affected utility may use an energy service company or other external resource to implement a DSM program or measure or RET program or RET.
- B. The Commission may, at its discretion, establish independent program administrators who would be subject to the relevant requirements of this Article.

R14-2-2517. 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 gas utilities, or other entities if doing so will increase the effectiveness of a DSM program or measure or RET program or RET.
- B. An affected utility shall participate in a DSM program or measure or RET program or RET with an electric utility when doing so is practicable and if doing so will increase the effectiveness of the DSM program or measure or RET program or RET.

R14-2-2518. Compliance by Gas Distribution Cooperatives

- A. A gas distribution cooperative that is an affected utility shall comply with the requirements of this Section instead of meeting the requirements of R14-2-2504(A) and (B) and R14-2-2505(A).

- B.** A gas 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 providing information for each DSM and RET 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 web site.
- C.** A gas distribution cooperative's initial implementation plan shall be filed with Docket Control within 30 days of the effective date of this Article.
- D.** An implementation plan submitted under subsection (B) or (C) shall set forth an energy efficiency goal for each year of at least 75% of the savings requirement specified in R14-2-2504 and shall include the information required under R14-2-2505(B).

R14-2-2519. Compliance by Propane Companies

- A.** A propane company that is an affected utility shall comply with the requirements of this Section instead of meeting the requirements of R14-2-2504(A) and (B) and R14-2-2505(A).
- B.** A propane company 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 providing information for each DSM and RET 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 web site.
- C.** A propane company's initial implementation plan shall be filed with Docket Control within 30 days of the effective date of this Article.
- D.** An implementation plan submitted under subsection (B) or (C) shall set forth an energy efficiency goal for each year of at least 50% of the savings requirement specified in R14-2-2504 and shall include the information required under R14-2-2505(B).

R14-2-2520. 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.

GAS ENERGY EFFICIENCY RULES

Economic, Small Business and Consumer Impact Statement

1. Identification of the rule making.

The rules are new Sections under Title 14, Chapter 2 - Corporation Commission, Fixed Utilities. Rules R14-2-2501 through R14-2-2520 require affected utilities, by December 31, 2020, to achieve cumulative annual energy savings, expressed as therms or therm equivalents, equal to at least 6 percent of the affected utility's retail gas energy sales for calendar year 2019.

The rulemaking is designed to change gas utilities' longstanding practice of serving their customers' energy needs solely through providing gas service, without using energy efficiency as a resource or encouraging use of renewable energy resources. The harms resulting from the continuation of this practice include an increased need for infrastructure to distribute gas, an increased need for pipeline capacity, increased greenhouse gas emissions, increased costs to comply with environmental regulations, and ultimately depletion of gas supplies. The harms are very likely to occur without this rulemaking, as gas utilities currently have an incentive to sell increased quantities of gas to increase revenues. The Commission expects the affected utilities to make long-term, likely permanent, changes to their practices to comply with the rules.

The purpose of Gas Utility Energy Efficiency Standards is for affected utilities to achieve therm or therm equivalent savings through demand-side management ("DSM") and renewable energy resource technology application ("RET") programs in order to ensure reliable gas service at reasonable rates and costs. Energy efficiency means the production or delivery of an equivalent level and quality of end-use gas service using less energy, or the conservation of energy by end-use customers. DSM programs promote materials, devices, technologies, educational programs, practices or facility alterations designed to result in increased energy efficiency, including combined heat and power used to displace space heating, water heating or another load. RET programs promote technology applications that utilize an energy resource that is replaced rapidly by a natural, ongoing process, and that displaces conventional energy resources.

Requiring affected utilities to achieve energy savings through DSM and RET 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 gas consumed by an affected utility's customers, and the pattern of usage by those customers, directly impacts the physical assets that an affected utility must have in place and the amount of pipeline capacity it must reserve, as well as the affected utility's operating expenses. Decreasing the overall consumption of energy can reduce gas costs, infrastructure costs, and

distribution costs, and, in addition, reduce adverse environmental impacts (such as air emissions).

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 Gas Utility 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, 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 diversify energy resources, reduce the overall cost of reserving pipeline capacity, and reduce the need for additional infrastructure to distribute gas.

The Rules apply to affected utilities, as defined in the Rules. The public service corporations to whom the Gas Utility Energy Efficiency Standards rules currently apply, because they are affected utilities classified as Class A under A.A.C. R14-2-103(A)(3)(q), are Southwest Gas Corporation, UNS Gas, Inc., and SemStream Arizona Propane (Payson Division). 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 rule making.*
 - a. the public at large;
 - b. consumers of gas service in Arizona;
 - c. gas public service corporations;
 - d. Arizona Corporation Commission;
 - e. manufacturers, distributors, and installers of DSM measures;
 - f. manufacturers, distributors, and installers of RET equipment; and
 - g. 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 rule making.

Probable costs to the Commission of the rule making would include costs associated with reviewing filings, and participating in meetings and hearings. While the Commission's Utilities Division will experience an increased workload as a result of the rules, the Commission does not at this time anticipate adding any full-time employees to implement and enforce the rules.

To the extent that the implementing agency and other agencies are customers of affected utilities and install DSM measures or RET equipment, probable costs will include initial costs for the measures or equipment. 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 rule making.

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

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

Arizona currently has a monopoly market structure for gas utilities. The Commission generally sets rates for the gas 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 pipelines) used by the utility and the costs of service incurred by the utility (such as costs related to distribution).

The Gas Utility 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 DSM and RET programs may reduce therm 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 number of therms consumed by the customer during the billing period. If that amount is reduced by the customer's decreased consumption resulting from DSM and RET programs, the affected utility's revenues will be impacted accordingly. Rule R14-2-2511 requires that this impact be reviewed and addressed in an affected utility's rate case, if the affected utility requests to have it addressed and provides adequate documentation/records supporting its request.

If an affected utility is permitted to recover the costs of compliance with the Gas Utility 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 R14-2-2510(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 and RET programs (as contemplated under R14-2-2511), 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 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 rule making on small businesses.*

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

To the extent that small businesses are customers of affected utilities and install DSM measures or RET equipment, 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 gas utilities) will be required to comply with the rules. These entities are not small businesses.

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

The public at large will benefit from increased energy efficiency because energy efficiency reduces the need for gas and the infrastructure needed to deliver it. This results in fewer adverse environmental impacts than transporting, distributing, and using gas.

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 gas and gas transportation. In addition, the reduction in overall energy consumption will result in decreased adverse environmental impacts, such as air emissions, which should result in benefits to the public at large that cannot be adequately quantified at this time.

6. *Probable effect on state revenues.*

There may be an increase in state revenues from sales taxes on DSM and RET products. However, there may be a decrease in revenues from sales taxes on gas 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 DSM measures and RET equipment.

7. *Less intrusive or less costly alternative methods of achieving the purpose of the 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.

AGENCY CERTIFICATE

Notice of Final Rulemaking

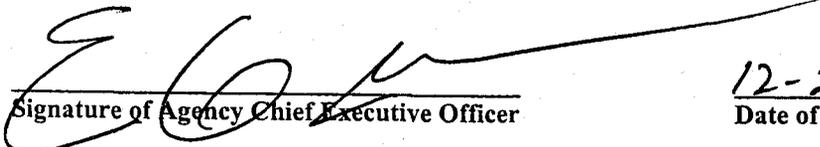
1. **Agency name:** Arizona Corporation Commission
2. **Chapter heading:** Corporation Commission-Fixed Utilities
3. **Code citation for the Chapter:** 14 A.A.C. 2
4. **The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical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

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

Action:

Article 25	New Section
R14-2-2501	New Section
R14-2-2502	New Section
R14-2-2503	New Section
R14-2-2504	New Section
R14-2-2505	New Section
R14-2-2506	New Section
R14-2-2507	New Section
R14-2-2508	New Section
R14-2-2509	New Section
R14-2-2510	New Section
R14-2-2511	New Section
R14-2-2512	New Section
R14-2-2513	New Section
R14-2-2514	New Section
R14-2-2515	New Section
R14-2-2516	New Section
R14-2-2517	New Section
R14-2-2518	New Section
R14-2-2519	New Section
R14-2-2520	New Section

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

6. 
Signature of Agency Chief Executive Officer

12-20-10
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
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R14-2-2505	New Section
R14-2-2506	New Section
R14-2-2507	New Section
R14-2-2508	New Section
R14-2-2509	New Section
R14-2-2510	New Section
R14-2-2511	New Section
R14-2-2512	New Section
R14-2-2513	New Section
R14-2-2514	New Section
R14-2-2515	New Section
R14-2-2516	New Section
R14-2-2517	New Section
R14-2-2518	New Section
R14-2-2519	New Section
R14-2-2520	New Section

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

6. _____
Attorney General

Date of signing

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>
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R14-2-2518	New Section
R14-2-2519	New Section
R14-2-2520	New Section

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