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BEFORE THE ARIZONA CORPORATION COM

Bob Stump, Chairman
Gary Pierce, Commissioner
Brenda Burns, Commissioner
Bob Burns, Commissioner
Susan Bitter Smith, Commissioner

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AZ CORP COMMISSION
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IN THE MATTER OF THE COMMISSION'S INVESTIGATION TO ADDRESS ENERGY EFFICIENCY/DEMAND SIDE MANAGEMENT ("EE/DSM"), COST EFFECTIVENESS OF EE/DSM AS CURRENTLY ADMINISTERED, EE/DSM COST RECOVERY METHODOLOGIES (INCLUDING THE ENERGY EFFICIENCY RESOURCE PLAN PROPOSED IN THE TUCSON ELECTRIC POWER COMPANY RATE CASE SETTLEMENT AGREEMENT, DECISION NO. 73912), NEED OR NOT FOR EE/DSM PERFORMANCE INCENTIVES, EE/DSM AS PART OF THE COMMISSION'S INTEGRATED RESOURCE PLAN PROCESS, AND POSSIBLE MODIFICATION OF CURRENT EE/DSM AND INTEGRATED RESOURCE PLAN RULES.

Docket No. E-00000XX-13-0214

Arizona Corporation Commission
DOCKETED
NOV 18 2014

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RESPONSE OF EFFICIENCY FIRST ARIZONA TO STAFF'S REQUEST FOR INFORMAL COMMENT

Efficiency First AZ (EFAZ) submits these comments in response to Staff's Request for Informal Comment issued on November 4, 2014, in the above-captioned docket. EFAZ is a 501(c)6 non-profit trade organization started by contractors in Arizona's residential and commercial energy efficiency industry. EFAZ's goal is to help Arizonans realize the tremendous benefits of energy efficiency (EE) by streamlining EE business opportunities and solving problems in the delivery of EE products and services in Arizona. EFAZ serves its members by promoting the benefits of energy efficiency retrofits to customers, providing education and networking opportunities, and representing the efficiency industry in state and federal policy forums.

EFAZ has serious concerns with Staff's issuance of draft proposed rules to modify the Energy Efficiency Standards ("EE Standards"). First, we believe the draft proposed rules contemplates substantive public policy changes that are not in the public interest of Arizonans – particularly the elimination of the EE Standards. Second, we believe the draft proposal would have a very detrimental impact to EFAZ members who play an increasingly important role in Arizona's economy. Third, we object to Staff's draft proposed rulemaking from a procedural standpoint. Finally, given the radical nature of this proposal and the very short amount of time granted to the public and stakeholders to make comment on this proposal, EFAZ respectfully requests that the Commission extend the initial informal comment period by at least two weeks, and provide for an additional three weeks for reply comments to be filed.

I. PUBLIC POLICY ISSUES

The EE Standards have benefited a large and growing number of utility ratepayers directly

Since their adoption, the Energy Efficiency Rules have brought substantial benefits to utility ratepayers. From 2010 to 2013, the amount of cost-effective energy savings Arizona utilities provided to their customers has increased by over 40%, equating to more than $540 million in net benefits. This is clear evidence that the Standard has been accomplishing the intended effect of increasing the amount of energy efficiency taking place in Arizona. Arizona utilities deserve great credit for developing our state's nation-leading EE programs. However, in EFAZ's view, it is the Standard that has motivated the utilities to expand the scale and reach of these programs. Over time, the programs and measures have reached an increasingly large share of Arizona ratepayers who now benefit directly from energy savings and lower utility bills. Today, hundreds of thousands of Arizona customers have been benefited utility EE investments. This contrasts from other types of utility investments that may only benefit a small number of customers (e.g. a new distribution line), but whose costs are also subsidized by all customers.

As contractors, EFAZ's members deal directly with the customers who benefit from these services. Our businesses are intimately aware of the benefits that these programs provide to customers – not just in terms of energy savings, but also in terms of human health and quality of life. On a daily basis, we see a large number of homes and businesses that operate inefficiently, often leading to poor indoor air quality and unsafe living conditions. We are proud to be able to provide services that can improve living conditions for thousands of Arizona residents while ultimately providing savings to all utility customers. EFAZ is concerned that the elimination of the EE Standards will lead to a reduction in the scale of these essential efficiency retrofits, thereby lowering the quality of life and increasing utility bills for thousands of Arizonans.

The EE Standards have benefitted all utility ratepayers through lower customer bills

Due to the increased investment activity in Energy Efficiency motivated by the EE Standard -- investments that EFAZ members have helped deliver -- energy efficiency now stands as a substantial contributor to each utility resource portfolio. This means that fewer investments have been made, or will need to be made going forward, in expensive new power plants.

Prior to the adoption of the EE Standard in 2010, analysis by Lawrence Berkeley National Lab indicated that APS and TEP customers alone could stand to save up to $9 billion dollars over the long term if the EE Standards were met.[1] This analysis illustrates how long-term benefits accrue from EE by deferring investments costing billions of dollars. Other more recent studies confirm this notion; for example, a 2012 study by Southwest Energy Efficiency Project (SWEEP) demonstrates that the EE Standards will provide net economic benefits to Arizona of approximately $7 billion all while saving 14,924 GWh in electricity and 3,663 million gallons of water.

Investing in energy efficiency leads to greater job creation than other energy resources

Investment in energy efficiency supports jobs in more labor-intensive sectors of the economy than traditional energy resources. On average, traditional energy sources support about 10 jobs per $1 million invested.[2] By contrast, energy efficiency leads to jobs in sectors such as construction and trade services, which support 19-20 jobs per $1 million invested. EFAZ's members can attest to the fact that investment in EE supports high quality jobs, robust entrepreneurship, and a growing pool of skilled workers. Thus EE investment will help to boost Arizona's economy by supporting local job creation and retention of investment in the state.

Some of our businesses employ veterans and they have told us they are proud to contribute to America's energy security by reducing demand for foreign energy imports through efficiency. Branches of the military have embraced EE measures because they know they work. Consumers in Arizona deserve the same benefits and opportunities.

The current Energy Efficiency Standard is set to create over 10,000 new jobs in Arizona and these are jobs that stay in state. There are also companies that have developed new products

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[1] Lawrence Berkeley National Lab, Analysis of the Energy Efficiency Standard (EES) and Decoupling on Arizona Public Service and Tucson Electric Power (APS and TEP Sensitivity Cases), June 14, 2010.

[2] http://www.aceee.org/blog/2011/11/how-does-energy-efficiency-create-job

directly related to the EE industry. They are expanding their manufacturing here and more companies have plans to do the same. We are in a unique industry, as when we thrive, consumers benefit from healthier, safer and more efficient buildings. The Energy Efficiency Standard as it is today will continue to build businesses and needed career opportunities, while improving our built environment.

The remaining opportunity for cost-effective EE savings is large

Our member companies have extensive direct experience in the field of delivering energy retrofits. Based on this experience, we can firmly attest to the fact that the opportunity for additional energy efficiency savings is very large. The notion that the "low-hanging fruit" of EE has already been picked could not be further from the truth. Indeed, we believe there is great potential for additional energy savings, particularly in the Commercial and Industrial sectors, moving forward. The evidence presented in the recently held workshop on Innovations and Technological Development on May 28, 2014 (Docket No. E-00000J- 13-0375) revealed several examples some of the additional savings opportunities in this regard. No evidence introduced to this proceeding suggested that the opportunity for EE investments in Arizona currently faces any specific technical or economic limitations. The fact that EE costs several times less than any other energy resource suggests that there are ample opportunities for additional cost-effective EE measures.

The proposed revisions to the EE planning process could eliminate EE savings for several years

In its proposal, Staff recommends Implementation Plan filings on June 1 of odd years. We note that due to the time required for rulemakings to be finalized, the proposed rulemaking process is unlikely to be finalized before June 1, 2015. Under this circumstance, the next EE Implementation Plan would not be filed until June 1, 2017. This means that utilities may not be able to pursue new EE programs or measures for several years after the rule's adoption, depriving customers of significant EE benefits for an extended period of time. Such an unwarranted delay would almost certainly deprive Arizona consumers of millions of dollars in savings, and produce great uncertainty for the growing efficiency companies doing business in our state.

The current practice of EE Implementation Plans provides the Commission with adequate flexibility to guide appropriate EE investment

The current practice of the utilities filing and the Commission approving DSM Implementation Plans allows for course corrections of EE programs and policies over time. This provides an adequate venue for utilities to add, modify, or cancel EE programs as needed. It also allows utilities' plans to be considered on an individual basis and if necessary provide waivers for certain aspects of the EE rule to utilities that face unique circumstances. In fact, the Commission has already taken advantage of this flexibility on several occasions. EFAZ supports continued use of the Implementation Plans to tailor EE programs and policies to each utility as needed.

Keeping the existing Standard in place is preferable to pursuing EE solely through the IRP process

Because the resource plans developed through current IRP process are non-binding, they lack the accountability necessary to ensure appropriate EE investment through utility programs. If the Commission is intent on pursuing EE through the IRP process, the IRP rules could be modified, first to include a binding resource plan, and second to include a requirement for utilities to pursue all cost-effective energy efficiency. However, we don't believe that the EE Standards need to be modified or suspended to accomplish this. We support the option to use the IRP to pursue additional cost-effective EE above and beyond the Standard, but we view the Standard as a floor in the amount of EE investment that utilities can and should pursue. The Commission already has the flexibility to encourage this additional EE investment through the EE Implementation Plan process. In any case, it is imperative that any IRP rule changes being contemplated should come before any EE rule changes are contemplated. Furthermore, before such change is considered, it is imperative that the Commission demonstrate that the new IRP rules are successful in accomplishing cost-effective utility resource procurement before relying on this process to procure EE resources.

The Ratepayer Measure Impact (RIM) Test is not an appropriate test for cost-effectiveness screening of EE programs or measures

While the RIM test is useful for comparing the immediate revenue impacts of different EE measures, it does not accurately account for long-term benefits to customers. Because of this fact, many nonsensical measures could technically be approved, such as removal of attic insulation, unsealing of ductwork, or replacement of new AC units with older less efficient ones.

EFAZ notes that the RIM test includes uncertainties that ought to disqualify its use as a primary test for screening EE measures. As stated in the Standard Practice Manual where the cost effectiveness tests were originally developed: "Results of the RIM test are probably less certain than those of other tests because the test is sensitive to the differences between long-term projections of marginal costs and long-term projections of rates, two cost streams that are difficult to quantify with certainty." EFAZ also notes that no state other than Virginia uses the

RIM test as its primary test for cost effectiveness.[3] If the Commission is interested in promoting the long-term prosperity of Arizona ratepayers (as opposed to short term utility revenues) then it should eschew the RIM test in favor of continued use of the Societal Cost Test.

Changes to the demand response (DR) portion of the EE rules are not necessary to promote additional DR

EFAZ supports DR as an essential part of any DSM portfolio. Our members are eager to help expand DR measures to customers, particularly since new technologies (e.g. smart thermostats) are poised to enable broader participation in DR measures. EFAZ notes that the existing EE rules place no limit on the amount of DR that utilities can procure. There may be additional opportunities for DR that could be considered if all cost-effective DR were pursued beyond the purported limitations of the Standard.

EFAZ does not support policy changes that would lead EE and DR measures to compete with one another and we believe that both should be supported to their fullest extent. However, we are concerned that the changes proposed in Staff's draft will lead utilities to exclusively pursue DR in their DSM portfolios at the expense of other EE measures. This is partly because the current and proposed rules artificially inflate the energy savings attributed to DR based on an assumed capacity factor of 50%. If the proposed modifications (i.e. removal of the 2% DR credit limit) are pursued, then we believe other modifications would be necessary such as a more realistic capacity factor assumption or perhaps a separate DR standard.

II. IMPACTS TO EFAZ BUSINESSES

Since the adoption of the Energy Efficiency Standards, EFAZ members' collective business activities have grown substantially. In fact, the programs that underpin the Efficiency Standard have been essential to jump-starting Arizona's energy efficiency economy. The small businesses supported by these policies have created of thousands of local jobs, with thousands more to come. In fact, a recent study by the Southwest Energy Efficiency Project predicts that full achievement of the EE Standards will lead to a net increase in Arizona jobs of 9,280 by 2020 when compared to "business as usual".[4] These jobs directly benefit Arizona's local economy, unlike other energy resources that are imported from out of state.

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[3] http://www.aceee.org/sector/state-policy/virginia

[4] http://swenergy.org/publications/20BBonanza/20BB%20Arizona%20presentation.pdf

Yet, our industry is still in its infancy and the technologies and practices we employ are rapidly evolving. We recognize that the Commission has some concerns about subsidies and cost-effectiveness related to EE. However we want to reassure the Commission that our industry is constantly striving to lower costs and "do more for less" and we see room for improvement in terms of both cost-effectiveness and program participation rates.

These improvements cannot be achieved, though, without an adequate level of certainty for our businesses. By setting a predictable level of savings over the coming years, the Standard has created a level of regulatory certainty for our industry that enables us to hire new employees, procure essential equipment, and focus on driving down the costs and increasing the participation in efficiency programs -- all while making Arizona more energy efficient and saving ratepayer dollars. We hope the Commission would strive to maintain that regulatory certainty by avoiding regulatory decisions that disrupt the local EE economy.

Moreover, if the Commission truly aims to provide the most cost-effective energy efficiency possible, it would be counter productive to replace the current stable path towards EE with one that could lead to wild swings, up or down, in EE investment depending on the whims of future Commissions. This would mean that EE businesses like ours would be going in and out of business, laying off workers, and undoubtedly leading to higher costs for EE savings.

EFAZ is committed to working with the Commission through the existing DSM Implementation Plan process to improve EE's cost-effectiveness and expand EE's reach so that programs and measures can provide benefits to more utility customers. We would be eager to meet with Commissioners and Staff to identify these areas of improvement that can be accomplished through the Implementation Plans. We view this as a more appropriate path forward than the radical policy changes outlined in Staff's Draft. A decision to move forward with this proposed rulemaking would cause significant disruption to what is an essential and growing part of Arizona's economy, and an essential benefit for ratepayers.

III. PROCEDURAL ISSUES

An insufficient record was developed to support the proposed policy changes

We believe the draft proposed rulemaking ("Draft") released by Staff on November 4, 2014, contemplates a substantial policy proposal that does not reflect the evidence presented or conclusions made in this proceeding. Several major policy changes were introduced in the Draft that had not been thoroughly vetted in this proceeding prior to the release of the Draft, including the following:

- Replacement of the EE Standards with non-binding EE Goals (R14-2-2404)
- Limiting the rule's applicability to utilities required to file an integrated resource plan (R14-2-2402)
- Providing Staff the ability to request modification of individual DSM measures in addition to programs (R14-2-2405.E)
- Replacement of the Societal Cost Test with the Utility Cost Test and Ratepayer Measure Impact Test when screening programs (R14-2-2405.H)
- Enabling utilities to terminate programs at their own discretion without Commission review or specified reasons (R14-2-2410.C)
- Elimination of gas utility energy efficiency (R-2-2501)
- Elimination of energy efficiency performance incentives (R14-2-2411)

We believe that Staff has prematurely introduced this policy proposal without adequate discussion or input from other stakeholders. For comparison, the public record prior to Staff's issuance of a draft proposed rulemaking was significantly more developed in the original EERS rulemaking, as illustrated in the table below. We believe that the Commission has offered inadequate time to comment on a proposal that represents a substantial policy change. We note that no reply comment period has been granted and request that additional time be granted in the form of this comment period or a reply comment period.

Original EE Rulemaking	RES Rulemaking	Current EE Rulemaking
March 14, 2003: The ACC issued Decision No. 65743 directing Staff to facilitate a workshop process to explore the development of a demand-side management ("DSM") policy. (see Finding of Fact #62)	January 6, 2004: ACC directed staff to initiative workshop process.	June 27, 2013: Docket Opened pursuant to Decision No. 73912
October 30, 2003: DSM Workshop	March-June, 2004: RE Workshop #1	March 18, 2014: Cost-Effectiveness Workshop
December 5, 2003: DSM Workshop	March-June, 2004: RE Workshop #2	March 31, 2014: Cost Recovery Workshop
January 15, 2004: DSM Workshop	March-June, 2004: RE Workshop #3	April 17, 2014: EE Standards and EE/IRP Rulemaking Workshop
February 13, 2004: DSM Workshop	March-June, 2004: RE Workshop #4	Nov 4, 2014: Staff issues draft proposed rulemaking
March 15, 2005: Staff files DSM Workshop Progress Report recommending continued workshops.	March-June, 2004: RE Workshop #5	
March 26, 2004: DSM Workshop	January 14, 2005: RE docket opened	

April 28, 2004: DSM Workshop	January 25, 2005: Staff files report summarizing parties' comments and recommending changes.	
May 20, 2004: DSM Workshop	Written comments filed on Staff's recommendations	
June 22, 2004: DSM Workshop	April 22, 2005: Staff files first draft rules packages	
July 23, 2004: DSM Workshop	June 2, 2005: Special Open Meeting	
August 20, 2004: DSM Workshop	June 3, 2005: Special Open Meeting	
September 14, 2004: DSM Workshop	August 10, 2005: Special Open Meeting	
September 23, 2004: DSM Workshop	August 11, 2005: Special Open Meeting	
October 26, 2004: DSM Workshop	Written comments filed on draft rules	
November 22, 2004: DSM Workshop	February 3, 2006: Staff files second draft rules package	
February 7, 2005 Staff issues Final Report on DSM Policy		
April 15, 2005: Staff issues First Draft of Proposed DSM Rules		

EFAZ notes that in original EE rules proceeding outlined above, Staff first issued a Progress Report on the workshops as well as a Final Report and DSM Policy statement. No similar reports, analysis or policy statements have been issued in this process to date.

Furthermore, Staff's release of a Draft diverges from procedure followed in more recent rulemakings. For example, in the current REST rule proceeding (RE-00000C-14-0112), a Decision was rendered (No. 74365) by the Commission ordering Staff to consult with utilities, interveners, and other interested stakeholders to consider and comment on various policy options before issuing a draft. The Decision also identified a date certain for the issuance of a draft of proposed rules. No comparable decision was rendered or timetable given in the current EE proceeding. During a Staff Meeting on April 30, 2014, Commissioner Pierce stated the following regarding next steps of the EE rulemaking: "We'll distribute in the next while some concepts and ideas. And we'll take comment back." However, no concepts were ever distributed for comment prior to the issuance of this Draft proposed rulemaking. We believe that Staff's proposal goes much further than what Commissioner Pierce described as "concepts" in the April 30, 2014, Staff Meeting.

There is an absence of stakeholder support for elimination of the EE Standard

The elimination of the EE Standard being proposed in Staff's Draft was not proposed or supported by any party to this proceeding. A public workshop was held on April 17, 2014, which was the only public meeting held in this proceeding specifically to address the potential "Modification or Suspension of the EE Standards." While some participants had concerns about the EE Standard's achievability, no party suggested that the EE standard should be eliminated or that the existing rules failed to give the Commission the ability to address parties' specific concerns. Below is a sample of some of the comments made by participants during this workshop regarding changes to the current EE/DSM Standards:

- "Southwest Gas does not believe that it is currently necessary to revise or modify any of the existing rules that are in place, or the Standards or goals." – Southwest Gas[5], 1:49:10
- "We don't see a real need right now to change the Standard or the rules." – Residential Utility Consumer Office (RUCO)[6], 2:01:38
- "In terms of whether they should be changed up or down – I think that's obviously a Commission policy question. Our comments today are not geared necessarily towards changing the Standard up or down per se. Our comments are more geared towards cost-effectiveness and making the standard more affordable to achieve."-- Arizona Public Service (APS)[7]
- "The rule is effective and is working fine. Any adjustments in EE in our view can be addressed through the Implementation Plans." – Southwest Energy Efficiency Project (SWEEP)[8]
- "Are we going to be able to meet that standard? That still remains to be seen. That Standard still grows and that will play out over time and we'll have to figure that out as we go along." – Tucson Electric Power (TEP)[9]
- "Depending on how the Commission wants to approach this, if the answer to the question as follows: "If energy efficiency is a resource, should the Commission have flexibility to adjust energy efficiency goals by utility, based upon the needs of that utility?" Depending on the answer to that question, that may solve this issue [of the Standard's achievability] for the cooperatives and how we perceive the current standard." – Grand Canyon State Electric Cooperative Association (GCSECA)[10]

EFAZ is concerned that Staff's proposal to eliminate the EE Standards does not match the interests of affected parties and was not based on any evidence or conclusions provided in the proceeding.

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[5] See http://azcc.granicus.com/MediaPlayer.php?view_id=3&clip_id=1462 at 1:49:10
[6] See http://azcc.granicus.com/MediaPlayer.php?view_id=3&clip_id=1462 at 2:01:38
[7] See http://azcc.granicus.com/MediaPlayer.php?view_id=3&clip_id=1462 at 11:54
[8] See http://azcc.granicus.com/MediaPlayer.php?view_id=3&clip_id=1462 at 1:41:05
[9] See http://azcc.granicus.com/MediaPlayer.php?view_id=3&clip_id=1462 at 1:42:47
[10] See http://azcc.granicus.com/MediaPlayer.php?view_id=3&clip_id=1462 at 1:52:00

Staff's draft proposed rulemaking reflects a narrowing of the proceeding's scope that is not aligned with its initial intent

The docket for this proceeding is titled as follows:

> In the matter of the Commission's investigation to address energy efficiency/demand side management ("EE/DSM"), cost effectiveness of EE/DSM as currently administered, EE/DSM cost recovery methodologies (including the Energy Efficiency Resource Plan proposed in the Tucson Electric Power Company rate case Settlement Agreement, Decision No. 73912), need or not for EE/DSM performance incentives, EE/DSM as part of the Commission's Integrated Resource Plan process, and possible modification of current EE/DSM <u>*and Integrated Resource Plan rules.*</u> <u>*(emphasis added)*</u>

This docket title suggested to EFAZ that any policy proposal put forward would include coincident modification of the EE/DSM and Integrated Resource Plan rules. Since the draft only addresses the EE/DSM rules in isolation, the draft does not appear to match the intent of modifying both sets of rules concurrently. The intent of the proceeding to explore concurrent revision to both the IRP and EE/DSM rules was discussed in the Staff Open Meeting held on June 27, 2013, which initiated the creation of this docket. However, later, in the April 30, 2014 Staff Open Meeting Commissioner Pierce indicated that only modification of the EE rules would be considered. EFAZ is very concerned that this radical departure from the proceeding's original scope occurred without any input from stakeholders or rationale given. We believe stakeholders should have been given additional opportunities to discuss with the Commission whether and how to proceed with any possible changes to the IRP rules, prior to possible changes to the EE rules, before this possibility was dismissed.

Staff's Draft proposes an unbalanced set of policy changes that do not reflect the full range of perspectives presented during the EE workshops

We note that several potential policy changes identified by utility stakeholders are included in Staff's draft proposed rulemaking. However, no potential changes identified by non-utility stakeholders were included in Staff's draft. Both the utility and non-utility policy changes are listed below.

Major policy options identified by utilities in the workshop that <u>***are***</u> included in Staff's draft proposed rulemaking:

- Removal of the 2% limit for demand response for meeting savings goals (R14-2-2404.F)
- Inclusion of energy savings from delivery-system improvements (R14-2-2404.E)

- Use of Ratepayer Impact Measure test to screen programs (R14-2-2405.H)
- Cost recovery of EE in rate base (R14-22410.I)

Major policy options identified by non-utility stakeholders in the third workshop that ***are not*** included in Staff's proposed draft rulemaking:

- Updated application of the Societal Cost Test to include additional non-energy benefits and use of social discount rate.
- Revision of the IRP process to identify additional EE opportunities above the Standard.
- Requirement for utilities to pursue all cost-effective EE.

To provide a fair and balanced dialogue, we believe that Staff's draft proposal should have included additional rule change options reflecting the views of the non-utility stakeholders. At a minimum, Staff should have provided a clear rationale for why these other options were rejected.

IV. CONCLUSIONS

The Commission should reject the November 4th, 2014 draft proposed rulemaking. Not enough time has been granted to fully consider the impacts of this major policy proposal and no analysis or supporting evidence was given to explain why the changes are warranted. The proposal is the result of a flawed public process, suggests bad public policy, and would be severely detrimental to Arizona ratepayers and Arizona's economy.

Respectfully submitted this 18th day of November, 2014,

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