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ARIZONA CORPORATION COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION


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

**INFORMAL COMMENTS OF
ENERNOC, INC.**

Arizona Corporation Commission
DOCKETED

NOV 18 2014

DOCKETED BY 

To whom it may concern,

Attached, please find an original and 13 copies of EnerNOC, Inc. comments regarding draft amendments to the Arizona Corporation Commission's Energy Efficiency Rules for Gas and Electric Utilities.

Respectfully yours,

/S/

Mona Tierney-Lloyd

BOB STUMP, CHAIR
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BEFORE THE ARIZONA CORPORATION COMMISSION

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

**INFORMAL COMMENTS OF
ENERNOC, INC.**

I. INTRODUCTION

EnerNOC Inc. ("EnerNOC") appreciates the opportunity to submit these comments to the Arizona Corporation Commission in its "Request for Informal Comment," dated November 4, 2014, regarding draft amendments to the Arizona Corporation Commission's ("ACC's" or "Commission's") energy efficiency("EE") rules for gas and electric utilities.

EnerNOC is a publicly traded corporation that is a leading provider of energy intelligence software (EIS) and clean and intelligent power solutions to commercial, institutional, and industrial customers, as well as electric power grid operators and utilities. EnerNOC's technology-enabled demand response and energy management solutions help optimize the

balance of electric supply and demand. EnerNOC provides nearly 8,500 MW of dispatchable capacity reductions and energy management services across the United States, as well as in Canada, Australia, New Zealand, and the United Kingdom. EnerNOC has contracts to provide demand response services to Tuscan Electric Power and Salt River Project.

Due to the short period of time provided for filing comments since the issuance of the draft amendments, EnerNOC would like to request the opportunity to supplement these comments, if more time is granted by the Commission. In the alternative, EnerNOC requests that the Commission maintain the existing energy efficiency rules.

Since the ACC adopted the current EE rules, Arizona has emerged as one of the leaders in establishing energy consumption reduction targets, and is certainly on a par with neighboring states. These EE programs, which include peak load reduction services, provide consumers in the state with the ability to reduce wasteful consumption of electricity and to manage their use of and expenditures for electricity. Reducing electricity use benefits all consumers by reducing the overall cost of electricity, provides reliability benefits, increases the efficient use of existing infrastructure, and creates local jobs.

II. THE PROPOSED ENERGY EFFICIENCY RULES WOULD UNDERMINE ENERGY EFFICIENCY GROWTH AND DEVELOPMENT IN ARIZONA.

In order to ensure that Arizona's consumers continue to benefit from these rules, all stakeholders need certainty as it relates to the annual targets, and the associated funding to meet those targets, in order to encourage on-going customer participation and investment from service providers to achieve those targets. Given the success of the current rules and the lack of sufficient time for stakeholders to respond to the Commission's proposed changes,

EnerNOC urges the commission to provide more time for consideration of these rule changes and, if not, to leave the current EE rules in place. No evidence has been presented as to why the proposed changes are necessary or better than the rules already in place.

The existing rules provide clear direction over an extended period of time as to the expectations the Commission has for the Investor Owned Utilities ("IOU" or "IOUs") in terms of their expansion of EE on its system. The IOUs will plan to meet those expectations. Using a biennial IRP process provides no long-term guidance to the IOU, as the plan will be revised every two years. If the targets are modified every two years, the IOU could either be accelerating or decelerating their efforts to meet those targets. With a potential change every two-years, the IOU could very well be sending signals to customers and investors that their participation or investment is either wanted or unwanted. This type of proposal means that the status of EE programs and investment will always be in fits and starts. This is no way to send a signal that the state values EE as an economic resource.

Further, there is no guidance as to how EE will be evaluated relative to other resource types in an IRP. If the IOU can only count upon EE resources for a two-year period, it will color how the IOU makes resource decisions, particularly if there are longer-term resource needs. In that light, energy efficiency will be chosen by IOU less frequently than other resource types if the IOU needs to be able to count upon the availability of a resource over a longer period of time, than just two years. Not only is a two-year "planning horizon" unnecessarily short, this structure will ensure that EE resources are used only as a stop-gap, short-term resource and are

NOT counted upon as long-term planning resources. As a result, EE resources will be displaced by infrastructure investments that require decades of regulatory support.

The success of the existing EE rules is due to a properly designed benefit test and the regulatory and investment certainty provided by a well-defined, forward-looking standard. EE, and demand response can defer or replace the need for infrastructure investment. Infrastructure investments require a long-term regulatory commitment. In order for EE and DR to truly serve the purpose of reducing the need for new infrastructure investment, the regulatory commitment must be equally long and stable. Clearly defined targets, and associated funding, provide the IOUs, third-party providers and customers with the confidence to continue to invest in EE programs at levels necessary to deliver the results Arizona has demonstrated the ability to achieve. One need only look at the setback to EE programs in Tucson Electric Power's service territory as a result of an interruption in funding. Therefore, EnerNOC does not support such significant changes to the EE Rules as these changes would negatively affect existing and future programs and stunt EE development in Arizona.

III. THE EXISTING RULES DELIVER SIGNIFICANT ECONOMIC BENEFITS TO ARIZONA RATEPAYERS.

A. Energy Efficiency Reduces Electricity Costs For All Consumers

Since the adoption of the current EE rules in 2010, Arizona consumers have saved more than \$540 million on their IOU bills.¹ These savings make Arizona's EE standards among the most successful in the nation. If the current rules

¹ From Annual Demand Side Management Reports from Arizona Public Service and Tucson Electric Power from 2011-2013

remain in place, the savings to consumers has the potential to reach billions of dollars by 2020.² In addition, the current rules are intended to mitigate the impact to Arizona consumers of significant load growth. In the ACC's Decision Number 71819, which established the existing Article 24, "Electric Energy Efficiency Standards," in Arizona Administrative Code Title 14, Chapter 2, the Commission asserted that "Increasing energy efficiency will reduce load growth, diversify energy resources, and enhance the reliability of the electric grid, thereby reducing the pressure on and costs of electric distribution and transmission[.]"³

B. The Energy Efficiency Rules Have Created Jobs In Arizona.

Arizona energy efficiency measures must be implemented in Arizona. It is projected that over 3,800 well-paying jobs will have been created by the end of 2015 and as many 10,400 will have been created by the end of 2020 as a result of the current rules.⁴ Many of these jobs are filled by Arizona's skilled trades-people, who have struggled to maintain steady employment after sustained economic downturns in sectors such as new home construction. Indeed, given both the success and the still untapped potential for additional savings under Arizona's current EE standards, these skilled trades-people have the opportunity to start small businesses in the EE sector utilizing skills they already possess.

² The \$20 Billion Bonanza: Best Practice Electric IOU Energy Efficiency Programs and Their Benefits for the Southwest, Southwest Energy Efficiency Project, Howard Geller, October 2012, Page 140

³ ACC Decision No. 71819 at p. 48(h)

⁴ The \$20 Billion Bonanza: Best Practice Electric IOU Energy Efficiency Programs and Their Benefits for the Southwest, Southwest Energy Efficiency Project, Howard Geller, October 2012, Page 140

However, just as IOUs and third party providers need reasonable certainty regarding benefits and future targets, these needs are especially salient for entrepreneurs since both their livelihoods and their savings are tied to the ongoing success of the sectors they enter. Changing those rules which have been demonstrated to be successful and which were intended to be long term will send a signal to entrepreneurs that entering the EE sector is too risky. Most would not even be able to secure bank financing if they can only project revenues for two years at a time. The impact to small businesses of the current rules is evidenced by the level of comments and testimony provided by small businesses to the Commission in TEP's 2012 Rate Case (Docket No. E-01933A-12-0291). Indeed, dozens of consumers and small business owners testified in support of reinstating Tucson Electric Power's energy efficiency programs.

IV. SEVERAL ASPECTS OF THE PROPOSED CHANGES TO THE ENERGY EFFICIENCY RULES SHOULD NOT BE ADOPTED.

A. The Proposed Changes To The Benefits Tests Should Not Be Adopted.

The proposed draft changes to the energy efficiency rules would use a combination of the IOU Cost Test (UCT) and the Ratepayer Impact Measurement (RIM) test to determine cost effectiveness of energy efficiency programs.⁵ The methodology for determining the cost effectiveness of energy efficiency programs contained in the existing rules is the societal cost test (SCT).⁶ The SCT builds upon the Total Resource Cost (TRC) test, which examines the costs and benefits of a

⁵ ACC proposed amended Arizona Administrative Code Title 14, Chapter 2, Article 24, R14-2-2411(B)

⁶ Arizona Administrative Code Title 14, Chapter 2, Article 24, R14-2-2412(B)

program on the IOU, participants and non-participants, and includes externalities, like environmental, reliability or societal costs and benefits. The environmental and societal benefits can be more difficult to quantify, although certain aspects can be estimated, such as increase costs associated with carbon emissions or water use. In very few places, has the Ratepayer Impact Measurement (RIM) test, alone, been determinative as to whether a program cost effective or not.

The Commission explicitly acknowledged the importance of these externalities in Decision No. 71819 by asserting that “[c]ontinued reliance on existing generation resources without increasing energy efficiency is inadequate and insufficient to promote and safeguard the security, convenience, health, and safety of electric utilities’ customers and the Arizona public and is thus unjust, unreasonable, unsafe, and improper[.]”⁷ (Emphasis added). The Commission’s proposed changes to the EE rules abandon the Societal Cost Test and the Commission’s prior decision without explanation or evidence supporting the change.

The proposed change, R14-2-2407 (D)(2)(G) adds undue weight to IOU benefit by disallowing for consideration any DSM Program or Measure that does not score at least 1.0 or higher on the IOU Cost Test, regardless of the other scores. Deference to IOU costs is made explicit in the proposed R14-2-2407 (D)(2)(G) which renders the Total Resource Cost Test, the Societal Test, and the Participant Test useless by automatically approving DSM Programs/Measures which score 1.0 or higher on both the IOU Cost Test and the Ratepayer Impact Measure Test. Indeed, this deference is

⁷ ACC Decision No. 71819 at 48(j)

solidified in the proposed R14-2-2411, in which Part B stipulates that the only tests used to measure Cost Effectiveness shall be the IOU Cost Test and Ratepayer Impact Measure Test.

These proposed changes fundamentally shift the entire scope of Article 24 from ensuring a net benefit for all sectors (whether with or without societal benefits), to ensuring a net benefit for IOUs and potentially benefiting consumers.

B. The Deferral of Authority to Terminate Programs to the IOUs Would Undermine Program Certainty.

Proposed rule R14-2-2410(C) would direct IOUs to unilaterally terminate any DSM Program or Measure without any due process or input from the Commission or from impacted stakeholders if, in the IOU's sole determination, the program or measure is not cost effective or otherwise does not meet expectations. This proposed rule is dangerously vague regarding the conditions under which an IOU may terminate a program or measure. It is not clear which expectations, whose expectations, how many expectations or for how long a program must fail to meet those expectations before IOUs could exercise the authority the Commission proposes to grant them in terminating DSM Programs and Measures.

In addition, Commission Staff must verify the results of the two proposed cost effectiveness tests before a DSM Program or Measure could be approved, so it stands to reason that the Commission should have to verify the results of any test which indicates that a program or measure is not cost-effective or otherwise does not meet expectations before the IOU is allowed to terminate that program. There is

no indication given in the proposed rule changes as to why the Commission seeks to defer its implied authority under the existing R14-2-2410(C) to IOUs.

If IOUs are unilaterally empowered to terminate Commission approved DSM Programs and Measures, neither DSM providers nor Arizona consumers can reasonably expect that any DSM Program or Measure will last long enough to make participation a worthwhile endeavor. Even if the critically important energy efficiency standards remain in place, this proposed rule change would undermine any certainty provided by those standards.

V. FOURTEEN CALENDAR DAYS IS NOT SUFFICIENT TIME FOR STAKEHOLDERS TO PROPERLY ANALYZE THE IMPACTS OF THE PROPOSED RULE CHANGES.

The Commission issued its proposed rule changes on November 4, 2014, giving parties two weeks to review and comment upon the proposal. This time is not adequate to thoroughly consider the implications of these changes, considering the significance of the changes to the rules. The proposed rule changes not only eliminate all of the existing standards in the rules, the implementation plan process is changed, the assessment methodology is changed, cost recovery mechanisms are changed, performance incentives are eliminated, the determination of cost effectiveness is changed, and the IOUs are given authority to eliminate programs, authority that is currently held by the Commission.

Given the significant and sweeping structural changes being proposed to virtually every part of the existing standards, EnerNOC requires a longer period of time to properly assess the potential impacts of this proposal. Given the sweeping nature of the proposed changes,

and the absence of any explanation underpinning the need or expediency associated with the proposed amendments, Arizona stakeholders—especially consumers—must have the opportunity to digest, discuss, and debate the merits of the changes being proposed in a robust stakeholder process. It is simply not possible for that process to occur within 14 days. Therefore, EnerNOC respectfully requests an extension of time to further analyze the proposed changes and the ability to supplement these comments.

VI. CONCLUSION

EnerNOC, Inc. appreciates the opportunity to submit comments regarding the draft amendments to the Commission's energy efficiency rules for gas and electric utilities. Given the scope of the proposed amendments and the insufficient time that stakeholders have had to develop a well-formed understanding of the associated impacts, we urge the Commission to extend the period of time for parties to analyze the proposed rule changes and to supplement these comments. In the alternative, EnerNOC requests the Commission leave the current rules in place. Thank you for your consideration.

Dated: November 18, 2014

Respectfully submitted,

FOR ENERNOC, INC.

_____/s/_____

Mona Tierney-Lloyd