

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 2. CORPORATION COMMISSION FIXED UTILITIES

Editor's Note: The following Notice of Proposed Rulemaking is exempt from Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 139.)

[R09-147]

PREAMBLE

1. Sections Affected

Article 24
R14-2-2401
R14-2-2402
R14-2-2403
R14-2-2404
R14-2-2405
R14-2-2406
R14-2-2407
R14-2-2408
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R14-2-2418

Rulemaking Action

New Article
New Section
New Section

2. The specific 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, 40-281, 40-282, 40-322
Implementing statute: Arizona Constitution Article XV § 3; A.R.S. §§ 40-202, 40-203, 40-281, 40-282, 40-321, 40-322

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 16 A.A.R. 137, 2010 (*in this issue*)

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Maureen Scott, Esq.
Attorney, Legal Division, Corporation Commission
Address: 1200 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 542-3402

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

The purpose of Electric Energy Efficiency Standards is for affected utilities to achieve energy savings through cost-effective energy efficiency programs in order to ensure reliable electric service at reasonable rates and costs. Energy efficiency means the production or delivery of an equivalent level and quality of end-use electric service using less energy, or the conservation of energy by end-use customers. Cost-effective energy efficiency is less expensive than generating electricity and provides less impact on the environment. By December 31, 2020, the rules would require affected utilities to achieve cumulative annual energy savings, measured in kilowatt-hours, equivalent to at least 22 percent of the affected utility's retail electric energy sales for the prior calendar year (2019).

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. 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

8. The preliminary summary of the economic, small business, and consumer impact:

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

Consumers of affected utilities who install energy efficiency measures may incur an initial cost for the measure, but they are then able to reduce the amount of electricity that they buy from the affected utility. Consumers include small businesses and other customer classes.

Manufacturers, distributors, and installers of energy efficiency measures benefit from increased energy efficiency because more of their products or services will be purchased. Employees of the manufacturers, distributors, and installers will benefit through increased job opportunities.

Affected utilities may incur additional costs of complying with program development, program implementation, and reporting activities. However, affected utilities will benefit from reduced costs for generation or procurement of electricity.

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

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

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10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Public comment will be held on March 5, 2010, beginning at 10:00 a.m. or as soon as practicable thereafter, in Hearing Room 1 at the Commission's Phoenix offices of the Arizona Corporation Commission located at 1200 W. Washington St., Phoenix, AZ 85007. Hearing requests initial written comments be received on or before February 16, 2010 and responsive comments be received on or before February 23, 2010. Comments should be submitted to Docket Control at the above address. Please reference docket number RE-00000C-09-0427 on all documents. Oral comments may be provided at the proceeding to be held on March 5, 2010.

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

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION
FIXED UTILITIES**

ARTICLE 24. ELECTRIC ENERGY EFFICIENCY STANDARDS

Section

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<u>R14-2-2419.</u>	<u>Waiver from the Provisions of this Article</u>

ARTICLE 24. ELECTRIC ENERGY EFFICIENCY STANDARDS

R14-2-2401. Definitions

In this Article, unless otherwise specified:

1. "Adjustment mechanism" means a Commission-approved provision in an affected utility's rate schedule allowing the affected utility to increase and decrease a certain rate or rates, in an established manner, when increases and decreases in specific costs are incurred by the affected utility.

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2. "Affected utility" means a public service corporation that provides electric service to retail customers in Arizona.
3. "Baseline" means the level of electricity demand, electricity consumption, and associated expenses estimated to occur in the absence of a specific DSM program, determined as provided in R14-2-2413.
4. "CHP" means combined heat and power, which is using a primary energy source to simultaneously produce electrical energy and useful process heat.
5. "Commission" means the Arizona Corporation Commission.
6. "Cost-effective" means that total incremental benefits from a DSM measure or DSM program exceed total incremental costs over the life of the DSM measure, as determined under R14-2-2412.
7. "Customer" means the person or entity in whose name service is rendered to a single contiguous field, location, or facility, regardless of the number of meters at the field, location, or facility.
8. "Delivery system" means the infrastructure through which an affected utility transmits and then distributes electrical energy to its customers.
9. "Demand savings" means the load reduction, measured in kW, occurring during a relevant peak period or periods as a direct result of energy efficiency and demand response programs.
10. "Demand response" means modification of customers' electricity consumption patterns, affecting the timing or quantity of customer demand and usage, achieved through intentional actions taken by an affected utility or customer because of changes in prices, market conditions, or threats to system reliability.
11. "Distributed generation" means the production of electricity on the customer's side of the meter, for use by the customer, through a process such as CHP.
12. "DSM" means demand-side management, the implementation and maintenance of one or more DSM programs.
13. "DSM measure" means any material, device, technology, educational program, pricing option, practice, or facility alteration designed to result in reduced peak demand, increased energy efficiency, or shifting of electricity consumption to off-peak periods and includes CHP used to displace space heating, water heating, or another load.
14. "DSM program" means one or more DSM measures provided as part of a single offering to customers.
15. "DSM tariff" means a Commission-approved schedule of rates designed to recover an affected utility's reasonable and prudent costs of complying with this Article.
16. "Electric utility" means a public service corporation providing electric service to the public.
17. "Energy efficiency" means the production or delivery of an equivalent level and quality of end-use electric service using less energy, or the conservation of energy by end-use customers.
18. "Energy efficiency standard" means the reduction in retail energy sales, in percentage of kWh, required to be achieved through an affected utility's approved DSM programs as prescribed in R14-2-2404.
19. "Energy savings" means the reduction in a customer's energy consumption directly resulting from a DSM program, expressed in kWh.
20. "Energy service company" means a company that provides a broad range of services related to energy efficiency, including energy audits, the design and implementation of energy efficiency projects, and the installation and maintenance of energy efficiency measures.
21. "Environmental benefits" means avoidance of costs for compliance, or reduction in environmental impacts, for things such as, but not limited to:
 - a. Water use and water contamination;
 - b. Monitoring storage and disposal of solid waste such as coal ash (bottom and fly);
 - c. Health effects from burning fossil fuels; and
 - d. Emissions from transportation and production of fuels and electricity.
22. "Incremental benefits" means amounts saved through avoiding costs for fuel, purchased power, new capacity, transmission, distribution, and other cost items necessary to provide electric utility service, along with other improvements in societal welfare, such as through avoided environmental impacts, including, but not limited to, water consumption savings, air emission reduction, reduction in coal ash, and reduction of nuclear waste.
23. "Incremental costs" means the additional expenses of DSM measures, relative to baseline.
24. "Independent program administrator" means an impartial third party employed to provide objective oversight of energy efficiency programs.
25. "kW" means kilowatt.
26. "kWh" means kilowatt-hour.
27. "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.
28. "Load management" means actions taken or sponsored by an affected utility to reduce peak demands or improve system operating efficiency, such as direct control of customer demands through affected-utility-initiated interruption or cycling, thermal storage, or educational campaigns to encourage customers to shift loads.
29. "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.
30. "Market transformation" means strategic efforts to induce lasting structural or behavioral changes in the market that

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result in increased energy efficiency.

31. “Net benefits” means the incremental benefits resulting from DSM minus the incremental costs of DSM.
32. “Non-market benefits” means improvements in societal welfare that are not bought or sold.
33. “Program costs” means the expenses incurred by an affected utility as a result of developing, marketing, implementing, administering, and evaluating Commission-approved DSM programs.
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 towards 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. “Total Resource Cost Test” means a cost-effectiveness test that measures the net benefits of a DSM program as a resource option, including incremental measure costs, incremental affected utility costs, and carrying costs as a component of avoided capacity cost, but excluding incentives paid by affected utilities and non-market benefits to society.

R14-2-2402. Applicability

This Article applies to each affected utility classified as Class A according to R14-2-103(A)(3)(q), unless the affected utility is an electric distribution cooperative that has fewer than 25% of its customers in Arizona.

R14-2-2403. Goals and Objectives

- A. An affected utility shall design each DSM program:**
 1. To be cost-effective, and
 2. To accomplish at least one of the following:
 - a. Energy efficiency.
 - b. Load management, or
 - c. Demand response.
- B. An affected utility shall consider the following when planning and implementing a DSM program:**
 1. Whether the DSM program will achieve cost-effective energy savings and peak demand reductions;
 2. Whether the DSM program will advance market transformation and achieve sustainable savings, reducing the need for future market interventions; and
 3. Whether the affected utility can ensure a level of funding adequate to sustain the DSM program and allow the DSM program to achieve its targeted goal.
- C. An affected utility shall:**
 1. Offer DSM programs that will provide an opportunity for all affected utility customer segments to participate, and
 2. Allocate a portion of DSM resources specifically to low-income customers.

R14-2-2404. Energy Efficiency Standards

- A. Except as provided in R14-2-2418, in order to ensure reliable electric service at reasonable ratepayer rates and costs, by December 31, 2020, an affected utility shall, through cost-effective DSM energy efficiency programs, achieve cumulative annual energy savings, measured in kWh, equivalent to at least 22% of the affected utility’s retail electric energy sales for the prior calendar year (2019).**
- B. An affected utility shall meet at least the following energy efficiency standard by the end of each year:**

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

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- C.** An affected utility's measured reductions in peak demand resulting from cost-effective demand response and load management programs may comprise up to two percentage points of the 22% energy efficiency standard, with peak demand reduction capability from demand response converted to an annual energy savings equivalent based on an assumed 50% annual load factor. The credit for demand response and load management peak demand reductions shall not exceed 10% of the energy efficiency standard set forth in subsection (B) for any year.
- D.** An affected utility's energy savings resulting from DSM energy efficiency programs implemented before the effective date of these rules, 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 programs shall not exceed 4% of the affected utility's retail energy sales in calendar year 2005. A portion of the total energy savings credit for these pre-rules programs may be applied each year, from 2016 through 2020, as follows:

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

- E.** An affected utility may count toward meeting the standard up to one third of the energy savings, resulting from energy efficiency building codes, that are quantified and reported through a measurement and evaluation study undertaken by the affected utility.
- F.** An affected utility may count the energy savings from combined heat and power (CHP) installations that do not qualify under the Renewable Energy Standard toward meeting the energy efficiency standard.
- G.** An affected utility may count a customer's energy savings resulting from self-direction toward meeting the standard.
- H.** An affected utility's energy savings resulting from efficiency improvements to its delivery system may not be counted toward meeting the standard.
- I.** An affected utility's energy savings used to meet the energy efficiency standard will be assumed to continue through the year 2020 or, if expiring before the year 2020, to be replaced with a DSM energy efficiency program having at least the same level of efficiency.

R14-2-2405. Implementation Plans

- A.** Except as provided in R14-2-2418, on June 1 of each odd year, or annually at the election of each affected utility, each affected utility shall file with Docket Control, for Commission review and approval, an implementation plan describing how the affected utility intends to meet the energy efficiency standard for the next one or two calendar years, as applicable, except that the initial implementation plan shall be filed within 30 days of the effective date of these rules.
- 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 these rules for the previous calendar year;
 2. Except that the initial implementation plan 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 that the initial implementation plan shall describe only the next calendar year, a description of each DSM program to be newly implemented or continued in the next two calendar years and an estimate of the annual kWh and kW savings projected to be obtained through each DSM program;
 4. The estimated total cost and cost per kWh reduction of each DSM measure and DSM program described in subsection (B)(3);
 5. A DSM tariff filing complying with R14-2-2406(A) or a request to modify and reset an adjustment mechanism complying with R14-2-2406(C), as applicable; and
 6. For each new DSM program or DSM measure that the affected utility desires to implement, a program proposal complying with R14-2-2407.
- C.** An affected utility shall notify its customers of its annual implementation plan filing through a notice in its next regularly scheduled customer bills.

- D. The Commission may hold a hearing to determine whether an affected utility's implementation plan satisfies the requirements of this Article.
- E. An affected utility's Commission-approved implementation plan, and the DSM programs authorized thereunder, shall continue in effect until the Commission takes action on a new implementation plan for the affected utility.

R14-2-2406. DSM Tariffs

- A. An affected utility's DSM tariff filing shall include the following:
 1. A detailed description of each method proposed by the affected utility to recover the reasonable and prudent costs associated with implementing the affected utility's intended DSM programs;
 2. Financial information and supporting data sufficient to allow the Commission to determine the affected utility's fair value, including, at a minimum, the information required to be submitted in a utility annual report filed under R14-2-212(G)(4);
 3. Data supporting the level of costs that the affected utility believes will be incurred in order to comply with this Article; and
 4. Any other information that the Commission believes is relevant to the Commission's consideration of the tariff filing.
- B. The Commission shall approve, modify, or deny a tariff filed pursuant to subsection (A) within 180 days after the tariff has been filed. The Commission may suspend this deadline or adopt an alternative procedural schedule for good cause.
- C. If an affected utility has an existing adjustment mechanism to recover the reasonable and prudent costs associated with implementing DSM programs, the affected utility may, in lieu of making a tariff filing under subsection (A), file a request to modify and reset its adjustment mechanism by submitting the information required under subsections (A)(1) and (3).

R14-2-2407. Commission Review and Approval of DSM Programs and DSM Measures

- A. An affected utility shall obtain Commission approval before implementing a new DSM program or DSM measure.
- B. An affected utility may apply for Commission approval of a DSM program or DSM measure by submitting a program proposal either as part of its annual implementation plan submitted under R14-2-2405 or through a separate application.
- C. A program proposal shall include the following:
 1. A description of the DSM program or DSM measure that the affected utility desires to implement.
 2. The affected utility's objectives and rationale for the DSM program or DSM measure.
 3. A description of the market segment at which the DSM program or DSM measure is aimed.
 4. An estimated level of customer participation in the DSM program or DSM measure.
 5. An estimate of the baseline.
 6. The estimated societal benefits and savings from the DSM program or DSM measure.
 7. The estimated societal costs of the DSM program or DSM measure.
 8. The estimated environmental benefits to be derived from the DSM program or DSM measure.
 9. The estimated benefit-cost ratio of the DSM program or DSM measure.
 10. The affected utility's marketing and delivery strategy.
 11. The affected utility's estimated annual costs and budget for the DSM program or DSM measure.
 12. The implementation schedule for the DSM program or DSM measure.
 13. A description of the affected utility's plan for monitoring and evaluating the DSM program or DSM measure, and
 14. Any other information that the Commission believes is relevant to the Commission's consideration of the tariff filing.
- D. In determining whether to approve a program proposal, the Commission shall consider:
 1. The extent to which the Commission believes the DSM program or DSM measure will meet the goals set forth in R14-2-2403(A), and
 2. All of the considerations set forth in R14-2-2403(B).
- E. Staff may request modifications of on-going programs to ensure consistency with this Article. The Commission shall allow utilities adequate time to notify customers of program modifications.

R14-2-2408. Parity and Equity

- A. An affected utility shall develop and propose DSM programs for residential, non-residential, and low-income customers.
- B. An affected utility shall allocate DSM funds collected from residential customers and from non-residential customers proportionately to those customer classes to the extent practicable.
- C. The affected utility costs of DSM programs for low-income customers shall be borne by all customer classes, except where a customer or customer class is specifically exempted by Commission order.
- D. DSM funds collected by an affected utility shall be used, to the extent practicable, to benefit that affected utility's customers.
- E. All customer classes of an affected utility shall bear the costs of DSM programs by payment through a non-bypassable mechanism, unless a customer or customer class is specifically exempted by Commission order.

R14-2-2409. Reporting Requirements

- A. By March 1 of each year, an affected utility shall submit to the Commission, in a Commission established docket for that

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year, a DSM progress report providing information for each of the affected utility's Commission-approved DSM programs and including at least the following:

1. An analysis of the affected utility's progress towards meeting the annual energy efficiency standard.
 2. A list of the affected utility's current Commission-approved DSM programs and DSM measures, organized by customer segment.
 3. A description of the findings from any research projects completed during the previous year.
 4. The following information for each Commission-approved DSM program or DSM measure:
 - a. A brief description;
 - b. Goals, objectives, and savings targets;
 - c. The level of customer participation during the previous year;
 - d. The costs incurred during the previous year, disaggregated by type of cost, such as administrative costs, rebates, and monitoring costs;
 - e. A description and the results of evaluation and monitoring activities during the previous year;
 - f. Savings realized in kW, kWh, therms, and Btus, as appropriate;
 - g. The environmental savings realized, including emissions and water savings;
 - h. Incremental benefits and net benefits, in dollars;
 - i. Performance-incentive calculations for the previous year;
 - j. Problems encountered during the previous year and proposed solutions;
 - k. A description of any modifications proposed for the following year; and
 - l. Whether the affected utility proposes to terminate the DSM program or DSM measure and the proposed date of termination.
- B. By September 1 of each year, an affected utility shall file a status report including a tabular summary showing the following for each current Commission-approved DSM program and DSM measure of the affected utility:
1. Semi-annual expenditures compared to annual budget, and
 2. Participation rates.
- C. An affected utility shall file each report required by this Section with Docket Control, where it will be available to the public, and shall make each such report available to the public upon request.
- D. An affected utility may request within its implementation plan that these reporting requirements supersede specific existing DSM reporting requirements.

R14-2-2410. Cost Recovery

- A. An affected utility may recover the costs that it incurs in planning, designing, implementing, and evaluating a DSM program or DSM measure if the DSM program or DSM measure is all of the following:
1. Approved by the Commission before it is implemented.
 2. Implemented in accordance with a Commission-approved program proposal or implementation plan, and
 3. Monitored and evaluated for cost-effectiveness.
- B. An affected utility shall monitor and evaluate each DSM program and DSM measure, as provided in R14-2-2415, to determine whether the DSM program or DSM measure is cost-effective and otherwise meets expectations.
- C. If an affected utility determines that a DSM program or DSM measure is not cost-effective or otherwise does not meet expectations, the affected utility shall include in its annual DSM progress report filed under R14-2-2409 a proposal to modify or terminate the DSM program or DSM measure.
- D. An affected utility shall recover its DSM costs concurrently, on an annual basis, with the spending for a DSM program or DSM measure, unless the Commission orders otherwise.
- E. An affected utility may recover costs from DSM funds for any of the following items, if the expenditures will enhance DSM:
1. Incremental labor attributable to DSM development.
 2. A market study.
 3. A research and development project such as applied technology assessment.
 4. Consortium membership, or
 5. Another item that is difficult to allocate to an individual DSM program.
- F. The Commission may impose a limit on the amount of DSM funds that may be used for the items in subsection (E).
- G. If goods and services used by an affected utility for DSM have value for other affected utility functions, programs, or services, the affected utility shall divide the costs for the goods and services and allocate funding proportionately.
- H. An affected utility shall allocate DSM costs in accordance with generally accepted accounting principles.
- I. The Commission shall review and address financial disincentives, recovery of fixed costs, and recovery of net lost income/revenue, due to Commission-approved DSM programs, if requested to do so by the affected utility in its rate case and the affected utility provides documentation/records supporting its request in the rate application.
- J. An affected utility, at its own initiative, may submit to the Commission twice-annual reports on the financial impacts of its Commission-approved DSM programs, including any unrecovered fixed costs and net lost income/revenue resulting from

its Commission-approved DSM programs.

R14-2-2411. Performance Incentives

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

R14-2-2412. Cost-effectiveness

- A. An affected utility shall ensure that the incremental benefits to society of the affected utility's overall DSM portfolio exceed the incremental costs to society of the DSM portfolio.
- B. The Societal Test shall be used to determine cost effectiveness.
- C. The analysis of a DSM program's or DSM measure's cost-effectiveness may include:
 - 1. Costs and benefits associated with reliability, improved system operations, environmental impacts, and customer service;
 - 2. Savings of both natural gas and electricity; and
 - 3. Any uncertainty about future streams of costs or benefits.
- D. An affected utility shall make a good faith effort to quantify water consumption savings and air emission reductions, while other environmental costs or the value of environmental improvements shall be estimated in physical terms when practical but may be expressed qualitatively. An affected utility, Staff, or any party may propose monetized benefits and costs if supported by appropriate documentation or analyses.
- E. Market transformation programs shall be analyzed for cost-effectiveness by measuring market effects compared to program costs.
- F. Educational Programs shall be analyzed for cost-effectiveness based on estimated energy and peak demand savings resulting from increased awareness about energy use and opportunities for saving energy.
- G. Research and development and pilot programs are not required to demonstrate cost-effectiveness.
- H. An affected utility's low-income customer program portfolio shall be cost-effective, but costs attributable to necessary health and safety measures shall not be used in the calculation.

R14-2-2413. Baseline Estimation

- A. To determine baseline, an affected utility shall estimate the level of electric demand and consumption and the associated costs that would have occurred in the absence of a DSM program or DSM measure.
- B. For demand response programs, an affected utility shall use customer load profile information to verify baseline consumption patterns and the peak demand savings resulting from demand response actions.
- C. For installations or applications that have multiple fuel choices, an affected utility shall determine baseline using the same fuel source actually used for the installation or application.

R14-2-2414. Fuel Neutrality

- A. Ratepayer-funded DSM shall be developed and implemented in a fuel-neutral manner.
- B. An affected utility shall use DSM funds collected from electric customers for electric DSM programs, unless otherwise ordered by the Commission.
- C. An affected utility may use DSM funds collected from electric utility customers for thermal envelope improvements.

R14-2-2415. Monitoring, Evaluation, and Research

- A. An affected utility shall monitor and evaluate each DSM program and DSM measure to:
 - 1. Ensure compliance with the cost-effectiveness requirements of R14-2-2412;
 - 2. Determine participation rates, energy savings, and demand reductions;
 - 3. Assess the implementation process for the DSM program or DSM measure;
 - 4. Obtain information on whether to continue, modify, or terminate a DSM program or DSM measure; and
 - 5. Determine the persistence and reliability of the affected utility's DSM.
- B. An affected utility may conduct evaluation and research, such as market studies, market research, and other technical research, for program planning, product development, and program improvement.

R14-2-2416. Program Administration and Implementation

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

R14-2-2417. Leveraging and Cooperation

- A. An affected utility shall, to the extent practicable, participate in cost sharing, leveraging, or other lawful arrangements with customers, vendors, manufacturers, government agencies, other electric utilities, or other entities if doing so will increase the effectiveness or cost-effectiveness of a DSM program or DSM measure.

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B. An affected utility shall participate in a DSM program or DSM measure with a natural gas utility when doing so is practicable and if doing so will increase the effectiveness or cost-effectiveness of a DSM program or DSM measure.

R14-2-2418. Compliance by Electric Distribution Cooperatives

A. An electric distribution cooperative that is an affected utility shall comply with the requirements of this Section instead of meeting the requirements of R14-2-2404(A) and (B) and R14-2-2405(A).

B. An electric distribution cooperative shall, on June 1 of each odd year, or annually at its election:

- 1. File with Docket Control, for Commission review and approval, an implementation plan for each DSM program to be implemented or maintained during the next one or two calendar years, as applicable; and
2. Submit to the Director of the Commission's Utilities Division an electronic copy of its implementation plan in a format suitable for posting on the Commission's web site.

C. An implementation plan submitted under subsection (B) shall set forth an energy efficiency goal for each year of at least 75% of the savings requirement specified in R14-2-2404 and shall include the information required under R14-2-2405(B).

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

A. The Commission may waive compliance with any provision of this Article for good cause.

B. The affected utility may petition the Commission to waive its compliance with any provision of the Article for good cause.

C. A petition filed pursuant to these rules shall have priority over other matters filed under this Article.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

TITLE, REGISTRATION, AND DRIVER LICENSES

Editor's Note: The following Notice of Rulemaking Docket Opening was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 139.) The Governor's Office authorized the notice to proceed through the rulemaking process on November 30, 2009.

[R09-144]

PREAMBLE

1. Sections Affected

R17-4-402
R17-4-403
R17-4-409

Rulemaking Action

Amend
New Section
Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):

Authorizing statute: A.R.S. § 28-366
Implementing statute: A.R.S. §§ 28-3002(A)(7) and 28-3165

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 15 A.A.R. 2149, December 25, 2009

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Dora L. Vasquez
Address: Administrative Rule Unit
Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007
Telephone: (602) 712-8159
Fax: (602) 712-3081
E-mail: dvasquez@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.azdot.gov/mvd/MVDRules/rules.asp.

- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
The Arizona Department of Transportation, Motor Vehicle Division, engages in this rulemaking to prescribe the fees associated with a duplicate driver license or a nonoperating identification license as required under Laws 2009, Chapter 3, § 6.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 7. 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
- 8. The preliminary summary of the economic, small business, and consumer impact:**
The Division anticipates, as a result of this rulemaking, a minimal economic impact to qualified persons seeking to obtain a duplicate driver license or a duplicate nonoperating identification license. Costs include a fee for each application of a duplicate license under A.R.S. § 28-3002(7).
- 9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**
See item 4.
- 10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**
Date: February 24, 2010
Time: 3:00 p.m.
Location: 1801 W. Jefferson St., Rm. 403
Phoenix, AZ 85007
Nature: Oral Proceeding/Public Hearing
The public record for this rulemaking will close at 5:00 p.m. on February 24, 2010.
- 11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable
- 12. Incorporations by reference and their location in the rule:**
Not applicable
- 13. The full text of the rule follows:**

TITLE 17. TRANSPORTATION

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES**

ARTICLE 4. DRIVER LICENSES

Section

- R17-4-402. Restricted Permit During a Financial Responsibility (Accident) Suspension
R17-4-403. ~~Reserved~~ Application for Duplicate Driver License or Duplicate Nonoperating Identification License: Fees
R17-4-409. Application for Nonoperating Identification License: Fees

ARTICLE 4. DRIVER LICENSES

R17-4-402. Restricted Permit During a Financial Responsibility (Accident) Suspension

- A. An applicant for a restricted permit shall:
1. Have no withdrawal action other than the financial responsibility (accident) suspension;
 2. Provide an SR22 Certificate of Insurance as proof of future financial responsibility that must be kept in force for three consecutive years after the effective date of the financial responsibility (accident) suspension;
 3. Pay the \$10 driving privilege reinstatement fee under A.R.S. § 28-4144(C)(2)(b); and
 4. For a vehicle ~~specified under subsection (A)(2):~~ subject to the provisions prescribed under A.R.S. § 28-4144(A)(2).

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- a. Pay the \$25 vehicle registration reinstatement fee under A.R.S. § 28-4144(C)(2)(b), or
 - b. Provide proof the vehicle was sold;
 - 5. Pay the driving privilege reinstatement application fee under A.R.S. § 28-3002(A)(2); and
 - 6. Satisfy any applicable ~~subsection (C) requirement~~ requirements of A.R.S. § 28-4033(A)(2)(c) or A.R.S. § 28-4144(C).
- B.** In addition to subsection (A) during a financial responsibility (accident) suspension, a restricted permit applicant may:
- 1. Apply for an original or renew an Arizona driver license by:
 - a. Complying with A.R.S. §§ 28-3153, 28-3158, or 28-3171; and
 - b. Paying the application fee under A.R.S. § 28-3002(A)(2) determined by the applicant's age on the application date; or
 - 2. Obtain a duplicate Arizona driver license by paying the \$4 ~~\$8~~ duplicate driver license application fee under A.R.S. § 28-3002(A)(7).
- C.** At the end of the financial responsibility (accident) suspension, the Division shall immediately remove the driving privilege restriction from the Arizona driving record when the person surrenders an expired restricted permit to the Division.

R17-4-403. ~~Reserved~~ Application for Duplicate Driver License or Duplicate Nonoperating Identification License: Fees

- A.** An applicant shall apply to the Division, on a form provided by the Director, for a duplicate driver license or a duplicate nonoperating identification license.
- B.** The fee for the duplicate driver license or duplicate nonoperating identification license issued by the Department is \$8 under A.R.S. § 28-3002(7).

R17-4-409. Application for Nonoperating Identification License: Fees

- A.** An applicant shall apply to the Division, on a form provided by the Division, for a ~~License for Identification Purposes~~ Only nonoperating identification license, and shall comply with the requirements under A.R.S. § 28-3165.
- B.** Satisfactory proof of an applicant's name and date of birth may be established by any of the following:
 - 1. Birth certificate,
 - 2. Citizenship papers,
 - 3. Passport,
 - 4. School identification,
 - 5. Military discharge papers, or
 - 6. Military I.D. card.
- C.** ~~The following fees shall be paid:~~ An applicant shall pay a \$12 fee for a nonoperating identification license.
 - ~~1. For filing each application for license for identification purposes only -- \$12.00.~~
 - ~~2. The fee for replacing a lost or destroyed identification card -- \$4.00.~~