Decision No. C09-1066

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 09R-222G

IN THE MATTER OF PROPOSED AMENDMENTS TO THE RULES OF THE COLORADO PUBLIC UTILITIES COMMISSION RELATING TO NATURAL GAS DEMAND SIDE MANAGEMENT, 4 CODE OF COLORADO REGULATIONS 723-4-4750, ET SEQ.

DECISION ADOPTING RULES

Mailed Date: September 22, 2009
Adopted Date: July 23, 2009

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I. BY THE COMMISSION

A. Background

1. On March 18, 2009, we issued a Notice of Proposed Rulemaking (NOPR) by Decision No. C09-0319.

2. On April 30, 2009, a Motion for Clarification of Decision No. C09-0319, Motion for Extension of Time to Submit Comments and Motion for Waiver of Response Time was filed jointly by Atmos Energy Corporation (Atmos); Xcel Energy (Xcel); SourceGas Distribution, LLC (SourceGas); and Black Hills/Colorado Gas Utility (Black Hills). In Decision No.

C09-0467 we extended the schedule for response time, established a second hearing date of June 18, 2009, and announced a technical conference for May 22, 2009, to address the issues raised in the motion.

3. A technical conference was conducted by Commission Staff for May 22, 2009. At the conference Staff addressed: the rationale underlying the NOPR; how the discount rate and bonus calculation interact; and the issues raised in the motion for clarification. In attendance at the workshop were representatives of Atmos, Black Hills, Colorado Natural Gas, Inc. (CNG), the Colorado Office of Consumer Counsel (OCC), Xcel Energy/Public Service Company of Colorado (Public Service) and SourceGas.

4. The basis and purpose of the proposed rulemaking is to define the term "discount rate" and to clarify the bonus structure set forth in the existing rules. These proposed amendments further enable the implementation of § 40-3.2-103, C.R.S., enacted in 2007.

5. We requested that interested persons file comments no later than June 8, 2009, in Decision No. C09-0467. We took additional general comments at a hearing on June 18, 2009. Seven parties provided written or oral comments, including: Atmos, Black Hills, CNG, OCC, Eastern Colorado Utility (Eastern), Public Service and SourceGas.

B. Rule 4751: Establishing a Discount Rate for Gas DSM

6. The NOPR proposed the use of a "societal" discount rate, reflecting that the source of the DSM funds is the ratepayers ("society"). The funding of DSM programs by ratepayers is roughly analogous to the government collecting revenue to support a government-initiated energy efficiency program. Thus, the federal government's societal discount rate, presented in OMB Circular A-94, was proposed as the gas DSM discount rate.

7. Black Hills commented that it agrees with the definition of discount rate proposed in the NOPR. Black Hills contends that a societal discount rate is preferable for gas DSM since a societal total resource cost (TRC) test is being used to evaluate gas DSM.[1] Black Hills offers *The National Action Plan for Energy Efficiency* as supporting this contention. Further, Black Hills comments that the issue of intergenerational equity (regarding the costs and benefits of DSM accruing over time) is best addressed through a societal discount rate, and presents *The California Standard Practice Manual* as supporting this position. Specifically, Black Hills contends that a weighted average cost of capital (WACC) discount rate will undervalue future benefits and overvalue current costs.

8. Black Hills also expressed support for using the same discount rate for determining the forecasted and actual benefits of the DSM programs, as well as the bonus calculation.

9. SourceGas expressed support for the societal discount rate. SourceGas commented that the societal rate correlates with the Commission's use of a societal test, (the "modified Total Resource Cost" test). SourceGas contends that WACC undervalues future societal costs and benefits and that there is an insignificant amount of avoided capital investment resulting from gas DSM. It also commented that after-tax WACC does not appropriately value risk, since the risk reflected in a WACC rate does not reflect the relatively low risk associated with funding DSM through contemporaneous recovery from ratepayers.

10. OCC commented that the purpose of a discount rate is to assist in comparing DSM to supply side resources for both electric and gas utilities. OCC noted that the

[1] Black Hills comments that Colorado's use of a "modified TRC" test is a societal test due to the inclusion of avoided emissions and non-energy benefits.

discount rate for supply side resources has historically been the utility's time value of money. OCC further commented that gas and electric DSM programs do not differ in any meaningful way, so that the same discount rate (after-tax WACC) should be used for both. OCC also commented that some avoided (upstream) capital expenditures do result from gas DSM and that the funds used to carry out gas DSM are not truly society's, but the utility's.

11. Public Service commented that no changes should be made to the existing gas DSM rules until the utilities have completed a program cycle. Public Service also commented that the discount rate needs to match the "cost of money" for the entity making the investment, which, in the case of gas DSM, is the utility. Public Service contends that otherwise the general ratepayer will be inappropriately subsidizing DSM. Public Service also commented that electric and gas DSM programs should continue to use the same methodologies for calculating cost effectiveness. For these reasons, Public Service advocates for the continued use of a discount rate based on after-tax WACC.

12. In the original gas DSM rulemaking (see Docket No. 07R-371G, Decision No. C08-248, paragraph 31), the Commission notes that the purpose of the bonus formula is to provide "a reasonable balance between the competing objectives, (sic) of motivating utility DSM performance across various utilities, acknowledging the occurrence of some lost revenues due to DSM and encouraging utilities to meet, if not exceed, their energy targets." We find that in order to determine the appropriate discount rate, we must first understand the impact of the discount rate on the bonus amount, as defined in Rule 4754(g)(III), and how that affects achievement of the stated purpose of the bonus.

13. Comments received from several utilities during this rulemaking indicate that the current bonus formula, combined with an after-tax WACC discount rate, yields a bonus amount

that does not balance the competing objectives mentioned above. (*See* the Initial Comments of Black Hills as well as the oral comments of Black Hills and SourceGas.) In other words, the bonus under the current circumstances is insufficient to both motivate DSM performance and acknowledge lost revenues.

14. We note that there are two potential remedies to this insufficiency: (1) change the discount rate to a lower value, such as the value proposed in the NOPR, thereby increasing the maximum potential bonus; or (2) connect the bonus only with the objective of motivating performance and address the lost revenue acknowledgement separately (outside of the bonus calculation). We find that it is not sound policy to adjust the discount rate for the purpose of increasing the maximum potential bonus. Further, we find there is value in maintaining continuity in the discount rates used throughout the regulated energy utilities. Thus, we conclude that the after-tax WACC is the most appropriate discount rate to use in DSM program calculations. We further conclude that the issue of the sufficiency of the potential bonus available to gas utilities needs to be addressed, as discussed below. We find that the language in Rule 4751(e) shall be modified to define "discount rate" as the utility's after-tax WACC.

C. Rule 4754: The Bonus Calculation (and the 50% "Bonus Factor")

15. The NOPR proposed that the current bonus calculation formula be modified by including a "Bonus Factor." The value of this factor is set in the NOPR at 0.5. The NOPR proposed multiplying the result of the existing formula by this factor to yield the percentage of Net Economic Benefits that the utility can retain as a bonus. The intent of the Bonus Factor is to mitigate an excessive increase in the bonus that would likely result from changing the discount rate from after-tax WACC to a societal rate.

16. Black Hills commented that reducing the bonus earned, through the Bonus Factor, is counter to encouraging the utility to pursue cost effective energy savings. Black Hills references Decision No. C08-0066, specifically the two intended purposes of the bonus: "a performance incentive and acknowledgment of the lost revenue potentially resulting from implementing a DSM program."[2] Black Hills provided data showing that its bonus, under either existing Commission policy or under the proposed rules, will not cover its anticipated lost revenue resulting from DSM.

17. Black Hills further commented that the proposed rule should be changed to allow the Bonus Factor to be utility-specific and that this factor be set at 1.0 in order to implement the bonus as designed in the original Gas DSM rules.

18. OCC proposed that the entire language concerning a Bonus Factor be deleted from the proposed rule in conjunction with the Commission adopting the WACC for the discount rate.

19. Public Service commented that the Bonus Factor modification to the bonus calculation undermines the incentive to pursue gas DSM programs and, therefore, recommended that it not be included in the formula.

20. SourceGas commented that the proposed Bonus Factor should be rejected by the Commission as inappropriate and inconsistent with state statute. SourceGas also commented that locking in a factor at the proposed 50% value appears to reflect current financial reality (where after-tax WACC is about twice the societal rate); yet, this ratio is likely to change with time.

[2] C08-0066, Paragraph 7(e)

21. Comments received during the hearing reinforced a concern that the existing bonus calculation formula has not been allowed to operate for one full cycle, and thus, it is premature to consider modifications at this time.

22. The comments concerning the need to let the current formula operate for a cycle are compelling. The current formula was designed to provide a reasonable and sufficient bonus, in terms of incentive and offsetting lost revenue. Further, it is difficult to determine a precise value for the Bonus Factor, given a lack of actual data concerning bonuses and lost revenue. Yet, we find that several utilities[3] are awaiting direction on which the discount rate to use for 2010 and that the comments received lead us to conclude that there is a deficiency in the current formula, as discussed below.

23. As noted, the primary purpose of the Bonus Factor is to temper the maximum potential bonus, in response to the impact of the societal discount rate upon the bonus. Based upon our conclusion in paragraph 14 to use the after-tax WACC discount rate for all gas DSM calculations, the Bonus Factor is no longer relevant. Thus, we find that the proposed language change in Rule 4754 (g)(III) shall not be adopted.

D. Rules 4753 and 4754: Addressing Bonus Insufficiencies through a Separate Filing

24. Black Hills Energy, in its Gas DSM Plan Application (Docket No. 08A-431G) proposed a "Revenue Normalization Mechanism" to recover the lost revenue it anticipated occurring as a result of DSM. In response to a Motion for a Declaratory Order, this item was removed from the proceeding by the administrative law judge, on the basis that lost revenue

[3] *See* C09-0016, C09-0028 and C09-0029, where the Commission established discount rates for use in 2009, yet, does not establish a rate for use in 2010.

cannot be defined as a "cost" of DSM and recovered through the DSMCA and that the intent of the bonus is, in part, to address the financial impact of DSM upon gas utility operations.[4]

25. The rationale underlying the language proposed in the NOPR is that (1) each utility has unique circumstances regarding its rate design, and (2) given these unique circumstances, the current bonus calculation may not provide adequate incentive and compensation to each utility. Specifically, each utility is recovering different portions of fixed costs through volumetric charges. Thus, it is impractical to create a "one-size-fits-all" approach to lost revenue recovery in rules. The change proposed in the NOPR is based on the premise that each utility is best situated to propose a method to the Commission concerning its cost recovery needs.

26. In its filed comments, Black Hills proposed that lost revenue calculations resulting from DSM be based upon the "deemed savings"[5] values approved in each utility's plan. Black Hills contended that such an approach will avoid the controversies and expenses associated with calculating and adjudicating specific lost revenue values. Further, Black Hills also proposed that the Commission entertain, in the separate filings, both full revenue normalization mechanisms as well as calculated lost revenue specific mechanisms.

27. OCC commented that the proposed language should be revised to remove any appearance of prejudgment associated with the term "is encouraged to" regarding filing a separate application. OCC proposed substituting the word "may."

[4] *See* Decision No. R09-0059-I, section IV.

[5] "Deemed savings" are the calculated estimate of energy that will not be consumed as a result of the DSM program or measure.

28. SourceGas commented that the proposed approach will be administratively inefficient, since it will require upwards of six filings (one from each regulated gas utility) in order for the Commission to enact the policy. SourceGas also commented that this proposed approach is unwarranted and that instead the rules should add a component to the Gas DSMCA addressing lost revenue.

29. Various parties commented at the workshop and hearing that the proposed language [Rule 4754(g)(I)] does not provide any direction for how the lost revenue calculations are to be performed. These parties also contended that this lack of definitive direction is likely to yield litigious and expensive Commission proceedings.

30. We conclude that all parties agree that the lost revenue resulting from gas DSM needs to be addressed. We also conclude that the language proposed in the NOPR in Rule 4754(g)(I) does not sufficiently address this issue, in that it defers the matter to a separate proceeding without providing additional direction regarding how the lost revenue calculation is to be made. Therefore, we find that the proposed language changes in the NOPR concerning Rule 4754(g)(I) shall not be adopted.

31. We concur with Black Hills' proposed use of "deemed savings" as an agreed-upon value for calculating lost revenue. This approach will serve the purpose of determining the actual number of therms not sold as a result of DSM, and without an additional administrative burden, especially since this value is already a requirement of the annual report each utility will file with the Commission. Specifically, pursuant to Rule 4754, each utility is required to report the number of therms saved by DSM, based upon approved deemed savings values and factoring in any measurement and verification activities undertaken.

32. We note that the proposal to use deemed savings does not address the cost to be associated with each therm saved, (e.g., the fixed cost lost revenue per therm). We find that the per-therm lost revenue value is critical to calculating an amount to be recovered, and that this value is specific to each utility. We thus conclude that each utility shall be directed to file with the Commission a proposed per-therm lost revenue value along with calculations supporting this value. This filing is to occur before January 1, 2010. For subsequent years this value shall be presented to the Commission as part each utility's DSM Plan Filing as set forth in Rule 4753. We have modified the language in that rule accordingly.

33. We find that it is appropriate to revisit the objectives for the bonus communicated by the Commission in paragraph 31 of Decision No. C08-248. Specifically, we conclude that the bonus shall have the singular objective of providing a performance incentive connected to achieving and exceeding DSM energy and savings targets, as set forth in Rule 4753.

34. We conclude that the second objective of acknowledging financially the lost revenue resulting from DSM shall be addressed separate from the bonus calculation. We find that calculating a value that acknowledges revenue lost due to DSM shall be based upon actual therm savings resulting from DSM, as reported to the Commission, and the per-therm value approved by the Commission that represents the utility's portion of fixed costs recovered through therm sales. We have modified the language in Rule 4754(g)(I), subparts (A) through (F), to reflect how lost revenue shall be acknowledged.

II. <u>ORDER</u>

A. The Commission Orders That:

1. The Commission adopts the amendments to Rules regarding Natural Gas Demand-side Management, attached to this Order as Attachment A.

2. The rules shall be effective 20 days after publication by the Secretary of State.

3. The opinion of the Attorney General of the State of Colorado shall be obtained regarding the constitutionality and legality of the rules.

4. A copy of the rules adopted by the Order shall be filed with the Office of the Secretary of State for publication in *The Colorado Register*. The rules shall be submitted to the appropriate committee of the Colorado General Assembly if the General Assembly is in session at the time this Order becomes effective, or to the committee on legal services, if the General Assembly is not in session, for an opinion as to whether the adopted rules conform with § 24-4-103, C.R.S.

5. The 20-day time period provided by § 40-6-114(1), C.R.S. to file an application for rehearing, reargument or reconsideration shall begin on the first day after the effective date of this Order.

6. This Order is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' DELIBERATION MEETING July 23, 2009

(S E A L)

ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RONALD J. BINZ

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JAMES K. TARPEY

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MATT BAKER

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Commissioners

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 *CODE OF COLORADO REGULATIONS* (CCR) 723-4

PART 4
RULES REGULATING GAS UTILITIES AND PIPELINE OPERATORS

*   *   *

[indicates omission of unaffected rules]

DEMAND SIDE MANAGEMENT

4750. Overview and Purpose.

These rules implement §§ 40-1-102, 40-3.2-101, 40-3.2-103, and 40-3.2-105, C.R.S. for gas utilities required by statute to be rate-regulated. Consistent with statutory requirements, the purpose of these Demand Side Management (DSM) rules is to reduce end-use natural gas consumption in a cost effective manner, in order to save money for consumers and utilities, and protect the environment by encouraging the reduction of emissions and air pollutants. These rules direct natural gas utilities in the design and implementation of programs that will enable sales customers to participate in DSM. The utility shall design DSM programs for its full service customers to achieve cost-effective energy savings, considering factors such as: achievable energy savings, customer benefits, cost effectiveness ratios, adoption potential, market transformation capability and ability to replicate in the utility service territory.

(a) Each utility shall file a DSM plan and application for cost recovery, within the parameters set forth in these rules. Within the application, the utility shall propose an expenditure target, savings target, funding mechanism, and cost-recovery mechanism.

(b) Each utility shall also file an annual DSM report and an application for bonus.

(c) Each utility shall file a measurement and verification report that evaluates the actual implementation and performance associated with its DSM program.

4751. Definitions.

The following definitions apply to rules 4750 through 4760, unless § 40-1-102 provides otherwise.

(a) “Amortization” means the systematic spreading of expenditures or capital costs incurred for DSM programs, through regular accounting entries over a specified period of time.

(b) “Benefit/cost ratio” means the ratio of the net present value of benefits to the net present value of costs, as calculated using the modified TRC test.

(c) “Cost effective” means a benefit/cost ratio of greater than one.

(d) “Demand side management” (DSM) means the implementation of programs or measures which serve to shift or reduce the consumption of, or demand for, natural gas.

(e) “Discount rate” means the interest rate used in determining the present value of future cash flows of DSM costs and benefits, for both forecasted and actual cash flows. The forecasted DSM costs and benefits are used to estimate the cost effectiveness of DSM measures to develop a cost effective DSM portfolio. The actual DSM costs and benefits, which are the actual costs of the program and the documented energy savings, are used to determine net economic benefits for the purpose of calculating the bonus. Discount rate shall be the utility’s after-tax weighted average cost of capital (WACC).

(~~e~~f) “DSM education” means a program, including but not limited to an energy audit, that contributes indirectly to a cost-effective DSM program by promoting customer awareness and participation..

(~~f~~g) “DSM measure” means an individual component or technology, such as attic insulation or replacement of equipment.

(~~g~~h) “DSM period” means the effective period of an approved DSM plan.

(~~h~~i) “DSM plan” means the DSM programs, goals, and budgets over a specified DSM period, generally considered in one year increments, as may be proposed by the utility.

(~~i~~j) “DSM program” means any combination of DSM measures, information and services offered to customers to reduce natural gas usage.

(~~j~~k) “Energy efficiency program” see DSM program.

(~~k~~l) “Gas Demand-Side Management Cost Adjustment” (G-DSMCA) means a rate adjustment mechanism designed to compensate a utility for its DSM program costs.

(~~l~~m) “Gas Demand-Side Management bonus” (G-DSM bonus) means a bonus awarded to a utility in accordance with § 40-3.2-103(2)(d), C.R.S.

(~~m~~n) “Market transformation” means a strategy for influencing the adoption of new techniques or technologies by consumers. The objective is to overcome barriers within a market through coordinating tactics such as education, training, product demonstration and marketing, often conducted in concert with rebates or other financial incentives.

(~~n~~o) “Modified Total Resource Cost test” or “modified TRC test” means an economic cost-effectiveness test used to compare the net present value of the benefits of a DSM program or measure over its useful life, to the net present value of costs of a DSM measure or program for the participant and the utility, consistent with § 40-1-102(5), C.R.S. In performing the modified TRC test, the benefits shall include, but are not limited to, as applicable: the utility’s avoided production, distribution and energy costs; the participant’s avoided operating and maintenance costs; the valuation of avoided emissions; and non-energy benefits as set forth in rule 4753. Costs shall include utility and participant costs. The utility costs shall include the net present value of costs incurred in accordance with the budget set forth in rule 4753.

(~~o~~p) "Net economic benefits" means the net present value of all benefits in the modified TRC test, as applied to the utility's portfolio of DSM programs, less the net present value of the costs in the modified TRC test associated with that same portfolio.

(~~p~~q) "Sales customer" or "full service customer" means a residential or commercial customer that purchases a bundled natural gas supply and delivery service from a utility but does not include customers served under a utility's gas transportation service rate schedules.

4752. Filing Schedule.

(a) Within 120 days of the effective date of this rule, each utility shall file its DSM plan and application for cost recovery.

(I) The utility shall implement its DSM plan and G-DSMCA, as approved by the Commission, by January 1, 2009.

(b) Beginning April 1, 2010 and each April 1st thereafter, each utility shall submit its annual DSM report, application for bonus and DSMCA filing.

(I) The DSMCA shall take effect July 1 of each year for a period of 12 months.

(c) The initial DSM plan filings of natural gas-only utilities shall cover a DSM period of two years. The initial DSM plan filings of natural gas and electric combination utilities shall cover a DSM period of three years. The subsequent DSM plan filings of all utilities shall cover a DSM period of three years unless otherwise specified by the Commission. Subsequent DSM plan applications are to be filed by May 1 of the final year of the current DSM plan.

4753. Periodic DSM Plan Filing.

On the schedule set forth in rule 4752, the utility shall file by application a prospective natural gas DSM plan for Commission approval. The plan shall detail:

(a) The utility's proposed expenditures by year for each DSM program, by budget category; the sum of these expenditures represents the utility's proposed expenditure target as required by § 40-3.2-103(2)(a), C.R.S.

(b) The utility's estimated ~~annual~~ natural gas energy savings over the lifetimes of the measures implemented in a given annual~~for the~~ DSM ~~plan years~~program period, expressed in dekatherms per dollar of expenditure, and presented for each DSM program proposed for Commission approval; this represents the utility's proposed savings target~~s~~ required by § 40-3.2-103(2)(b), C.R.S.

(c) The anticipated ~~annual~~ units of energy to be saved by a given annual DSM program, which equals the product of the proposed expenditure target and proposed savings target; this is referred to herein as the energy target.

(d) The estimated dollar per therm value that represents the utility's annual fixed costs that are recovered through commodity sales on a per therm basis.

(~~d~~e) The utility shall include in its DSM plan application data and information sufficient to describe the design, implementation, oversight and cost effectiveness of the DSM programs. Such data and information shall include, at a minimum, program budgets delineated by year, estimated participation rates and program savings (in therms).

(~~e~~f) In the information and data provided in a proposed DSM plan, the utility shall reflect consideration of the factors set forth in the Overview and Purpose, rule 4750. At a minimum the utility shall provide the following information detailing how it developed its proposed DSM program:

(I) Descriptions of identifiable market segments, with respect to gas usage and unique characteristics.

(II) A comprehensive list of DSM measures that the utility is proposing for inclusion in its DSM plan

(III) A detailed analysis of proposed DSM programs for a utility's service territory in terms of markets, customer classes, anticipated participation rates (as a number and a percent of the market), estimated energy savings and cost effectiveness.

(IV) A ranking of proposed DSM programs, from greatest value and potential to least, based upon the data required in subparagraph (III), above.

(V) Proposed marketing strategies to promote participation based on industry best practices.

(VI) Calculation of cost effectiveness of the proposed DSM programs using a modified TRC test. Each proposed DSM program is to have a projected value greater than or equal to 1.0 using a modified TRC test, except as provided for in paragraph (f), below.

(VII) An analysis of the impact of the proposed DSM program expenditures on utility rates, assuming a 12-month cost recovery period.

(~~f~~g) In its DSM plan, the utility shall address how it proposes to target DSM services to low-income customers. The utility shall also address whether it proposes to provide DSM services directly or indirectly through financial support of conservation programs for low-income households administered by the State of Colorado, as authorized by § 40-3.2-103(3)(a), C.R.S. The utility may propose one or more low-income DSM programs that yield a modified TRC test value below 1.0.

(~~g~~h) In proposing an expenditure target for Commission approval, pursuant to § 40-3.2-103 (2)(a), C.R.S., the utility shall comply with the following:

(I) The utility's annual expenditure target for DSM programs shall be, at a minimum, two percent of a natural gas utility's base rate revenues, (exclusive of commodity costs), from its sales customers in the 12-month calendar period prior to setting the targets, or one-half of one percent of total revenues from its sales customers in the 12-month calendar period prior to setting the targets, whichever is greater.

(II) The utility may propose an expenditure target in excess of two percent of base rate revenues.

(III) The utility may propose an expenditure target lower than the amount required in sub-paragraph (I), above, during an initial phase-in period. The utility must achieve at least the minimum expenditure target within three years of implementing the initial DSM plan.

(IV) Funds spent for education programs, market transformation programs and impact and process evaluations and program planning related to natural gas DSM programs may be recovered without having to show that such expenditures, on an independent basis, are cost-effective; such costs shall be included in the overall benefit/cost ratio analysis.

(~~h~~i) The utility shall propose a budget to achieve the expenditure target proposed in paragraph (a), above. The budget shall be detailed for the overall DSM plan and for each program for each year and shall be categorized into:

(I) Planning and design costs;

(II) Administrative and DSM program delivery costs;

(III) Advertising and promotional costs, including DSM education;

(IV) Customer incentive costs;

(V) Equipment and installation costs;

(VI) Measurement and verification costs; and

(VII) Miscellaneous costs.

(~~i~~j) The budget shall explain anticipated increases/decreases in financial resources and human resources from year to year.

(~~j~~k) A utility may spend more than the annual expenditure target established by the Commission up to twenty-five percent over the target, without being required to submit a proposed DSM plan amendment. Expenditures in excess of twenty-five percent over the expenditure target shall require submittal of a proposed DSM plan amendment.

(~~k~~l) As a part of its DSM plan each utility shall propose a DSM plan with a benefit/cost value of unity (1) or greater, using a modified TRC test.

(~~l~~m) For the purposes of calculating a modified TRC, the non-energy benefits of avoided emissions and societal impacts shall be incorporated as follows.

(I) The initial TRC ratio, which excludes consideration of avoided emissions and other societal benefits, shall be multiplied by 1.05 to reflect the value of the avoided emissions and other societal benefits. The result shall be the modified TRC. A utility may propose a different factor for avoided emissions and societal impacts, but must submit documentation substantiating the proposed value.

(~~m~~n) Measurement and verification (M & V) plan. The utility shall describe in complete detail how it proposes to monitor and evaluate the implementation of its proposed programs. The utility shall explain how it will accumulate and validate the information needed to measure the plan's performance against the standards, pursuant to rule 4755. The utility shall propose measurement and verification reporting sufficient to communicate results to the commission in a detailed, accurate and timely basis.

4754. Annual DSM Report and Application for Bonus and Bonus Calculation.

On the schedule set forth in rule 4752, the utility shall provide the Commission a detailed DSM report and application for bonus.

(a) In the annual DSM report the utility shall describe its actual DSM programs as implemented. For each DSM program, the utility shall document actual program expenditures, energy savings, participation levels and cost-effectiveness.

(b) Annual program expenditures shall be separated into cost categories contained in the approved DSM plan.

(c) For each DSM program, the utility shall compare the program's proposed and actual expenditures, savings, participation rate, and cost-effectiveness; in addition, the utility shall prepare an assessment of the success of the program, and list any suggestions for improvement and greater customer involvement.

(d) The utility shall provide actual benefit/cost results for the overall DSM plan and individual DSM programs implemented during the plan year. The benefit/cost analysis shall be based on the costs incurred and benefits achieved, as identified in the modified TRC test. Benefit values are to be based upon the results of M & V evaluation, when such has been conducted as set forth in rule 4755. Otherwise, the benefit values of the currently approved DSM plan are to be used.

(e) If the annual report covers a year within which an M & V evaluation was completed, the complete M & V results are to be included as part of the annual report.

(f) The utility may file an application for bonus, pursuant to rule 4760. The application for bonus shall include the utility's calculation of estimated bonus applying the methodology set forth in this rule to the utility's actual performance.

(g) The Commission shall determine the level of bonus, if any, that the utility is eligible to collect on the basis of the information included in the report, pursuant to the bonus criteria and process set forth, below.

(I) The primary objective of the bonus is to encourage cost-effective energy savings. The amount of bonus earned, if any, will correlate with the utility's performance relative to the approved savings target (dekatherms saved per dollar expended) and the energy target. Assuming all other factors that affect consumption remain unchanged, effective DSM programs will reduce per customer commodity consumption which may lead to revenue reductions for the utility. Separate from any bonus determined by the Commission, the Commission may authorize a utility to recover a calculated amount of revenue that acknowledges that an effective DSM program reduced the utility's revenue. This amount shall be calculated, beginning with 2009 DSM programs, as follows:

(A) The utility shall calculate a dollar per therm value that represents the utility's annualized fixed costs that are recovered through commodity sales on a per therm basis.

(B) For DSM programs already approved as October 1, 2009, the utility is to file with the Commission a proposed dollar per therm value and the methodology and supporting documentation for the calculation. This value, methodology, supporting documentation and request for approval is to be filed before January 1, 2010.

(C) For DSM programs filed after October 1, 2009, the utility shall include in the DSM Plan Application Filing set forth in rule 4753, a proposed dollar per therm value and the methodology and supporting documentation for the calculation.

(D) To determine the amount to be recovered as discussed in subparagraph (g)(I), above, the dollar per therm value, as approved by the Commission, shall be multiplied by the annualized number of therms saved as the result of the DSM program, as reported in the utility's annual report.

(E) This amount to be recovered shall be recovered through the Demand-Side Management Cost Adjustment (DSMCA), over the same twelve month period in which any approved bonus amount is recovered, as set forth in subparagraph 4752 (b)(I).

(F) For the purpose of inclusion in the above calculation, the annual report shall include the number of therms projected to be saved from the DSM programs in the twelve months following the end of the program year.

(II) As a threshold matter, the utility must expend at least the minimum amount set forth in ~~rule~~ subparagraph 4753 (g)(I), except during a phase-in period as set forth in subparagraph~~rule~~ 4753 (g)(III), in order to earn a bonus.

(III) The bonus amount is a percentage of the net economic benefits resulting from the DSM plan over the period under review. The percentage value is the product of the two factors:

(A) The Energy Factor is determined by the percentage of the energy target achieved by the utility. The energy factor is zero plus 0.5 percent for each one percent above 80 percent of the energy target achieved by the utility.

(B) The Savings Factor is the actual savings achieved divided by the approved savings target. Each of these quantities is expressed in dekatherms saved per dollar expended.

(IV) The following is provided as an example of the bonus calculation, using these illustrative numbers: utility achieves 106 percent of its energy target; the utility's savings target is 15,000 dekatherms per $1 million expended, and the utility's actual savings is 18,000 dekatherms per $1 million.

The energy factor would be: 50% x (106 – 80), or 13 percent

The savings factor would be: 18,000/15,000 or 1.2

The bonus percentage would be: 13% x 1.2, or 15.6 percent. Thus, 15.6 percent of net economic benefits would be the bonus amount.

(h) For the purposes of calculating the bonus, the costs and benefits associated with DSM programs targeted to low-income customers may be excluded as follows:

(I) The costs and benefits associated with a low-income DSM program may be excluded from the calculation of the net economic benefits for the entire DSM portfolio if the modified TRC value for the low-income program is below 1.0

(II) The expenditures and therms saved associated with a low-income DSM program may be excluded from the calculation of the Savings Factor if the therms saved per dollar expended for the low-income program is below the planned savings target for the overall DSM portfolio.

(i) The maximum bonus is twenty percent of net economic benefits or twenty-five percent of expenditures, whichever is less.

(j) Any awarded bonus shall be authorized as a supplement to a utility and not count against its authorized rate of return or be considered in rate proceedings. The awarded bonus shall be recovered through the G-DSMCA over a twelve-month period after approval of the bonus.

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[indicates omission of unaffected rules]