

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF SOUTHWESTERN PUBLIC)
SERVICE COMPANY'S APPLICATION FOR)
APPROVAL OF ITS 2010/11 ENERGY EFFICIENCY)
AND LOAD MANAGEMENT PLAN AND)
ASSOCIATED PROGRAMS, REQUESTED)
VARIANCES, AND COST RECOVERY TARIFF)
RIDER)
_____)**

Case No. 09-00352-UT

CERTIFICATION OF STIPULATION

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Carolyn R. Glick, Hearing Examiner for the New Mexico Public Regulation Commission (“Commission”), submits this Certification of Stipulation to the Commission pursuant to 1.2.2.20 NMAC. The Hearing Examiner recommends that the Commission adopt the following Statement of the Case, Background, Discussion, Findings of Fact, Conclusions of Law and Decretal Paragraphs in its Final Order.

II. STATEMENT OF THE CASE

This case initially began on September 21, 2009, when Southwestern Public Service Company (“SPS”) filed an Application seeking approval of its 2010-11 Energy Efficiency and Load Management Plan. On January 13, 2010, SPS filed an Uncontested Stipulation entered into among SPS, the Coalition for Clean Affordable Energy (“CCAЕ”), and the Commission’s Utility Division Staff (“Staff”). On March 1, 2010, following a public hearing, the Hearing Examiner issued a Certification of Stipulation. The Hearing Examiner recommended approval of the Stipulation with one modification. On March 11, 2010, the Commission issued a Final Order Approving Certification of Stipulation (“Final Order”), which adopted the Certification of Stipulation. The Final Order approved SPS’s 2010 Plan and provisionally approved its 2011 Plan.

The Commission made final approval of the 2011 Plan subject to the following requirements:

(a) by October 1, 2010, SPS shall file a compliance report (“Report”) regarding the 2011 Plan and associated programs which includes the following information: (i) identifies any modifications to the 2011 Plan; (ii) provides year to date (through August 2010) savings achieved by program as compared to projected savings; (iii) provides year to date expenditures by program as compared to projected expenditures; and (iv) provides a proposed 2011 EE [Energy Efficiency] Rider based on the current over/under collection balance and proposed 2011 budget;

(b) if the Report does not propose any modifications to the 2011 Plan, within 10 working days from the date the Report is filed, the other Signatories shall file affidavits that support the Commission granting final approval of the 2011 Plan, subject to the parties’ rights to request modification or termination of programs for good cause pursuant to 17.7.2.15 NMAC;

(c) if the Report proposes minor modification(s) to the 2011 Plan (i.e., program budget changes to existing programs that are 25% or less in accordance with 17.7.2.14

NMAC, adjustments to the 2011 EE Rider to account for any over- or under-collected balance; or the addition of a showerhead program in the 2011 Plan that complies with the Stipulation), the Signatories shall file affidavits within 15 working days from the date the Report is filed that either (1) support the Commission granting final approval of the 2011 Plan, as modified; or (2) oppose the final approval of the 2011 Plan, as modified and, in this regard, the Signatories agree to an expedited process for the Commission's review and action on the proposed modifications to the 2011 Plan;

(d) if the Report proposes significant modification(s) to the 2011 Plan (i.e., the proposed termination of program(s); proposals for new program(s); or program budget variations for existing programs that exceed 25% in accordance with 17.7.2.14 NMAC (except for a potential 2011 showerhead program that complies with the Stipulation)), the Signatories shall file a response to the Report within 15 working days, which would propose (1) an expedited process and procedures for the Commission to review and act on the 2011 Plan, as modified, without the need for filing a full application for approval under 17.7.2.9 NMAC; or (2) SPS be required to file an application for approval of a new 2011 Plan in accordance with § 62-17-5(E) of the EUEA and 17.7.2.9 NMAC, that will supersede the 2011 Plan provisionally approved.

Uncontested Stipulation, § 2.3.

The one modification to the Stipulation ordered by the Commission was:

SPS shall, in its compliance report due by October 1, 2010 under § 2.3(a) of the Stipulation, propose a residential energy efficiency program that meets EUEA and 17.7.2 NMAC requirements that is designed to target consumer behavior and motivate consumers to reduce their electricity consumption. A primary component of the program shall be periodically providing customers information on how their household electricity use compares to the electricity use of (i) comparable SPS customers' households; and (ii) an energy efficient household standard. The program may include other measures designed to motivate consumers to reduce their electricity consumption. SPS may propose to administer the program itself or through a third party. SPS shall consult with CCAE and Staff on design and implementation of the program. This program shall be considered a significant modification to the 2011 Plan, and the process set forth in § 2.3(d) of the Stipulation shall apply. For the proposed program, SPS, in its Compliance Report, shall include the information required by 17.7.2.9(E)(2)-(16) and 17.7.2.9(G)(1)-(6) NMAC.

Certification of Stipulation, ¶ E.

The Commission required SPS to file, within twenty days of issuance of the Final Order, an updated Energy Efficiency Rider to adjust the tariff rider values for (i) any Commission-ordered changes to the 2010

Plan; and (ii) any under- or over-recovery resulting from 2009 costs and revenues known at that time (along with any associated carrying charges incurred by under- or over-recovery). *Id.*, ¶ G.

The Commission required Staff to file, within six months of issuance of the Final Order, a proposed rule or amended rule that sets out how to calculate the amount of savings from a demand side management program that counts toward the statutory requirement. *Id.*, ¶ L.

On March 23, 2010, SPS filed Advice Notice 225 along with Third Revised Rate No. 44, its Energy Efficiency Rider.

On August 3, 2010, SPS filed a Motion to Modify Budget for the Approved 2010 Home Energy Services and Small Business Lighting Programs, which sought approval to increase the budgets for the Home Energy Services Program and the Small Business Lighting Program. On September 9, 2010, the Commission issued an Order granting SPS's Motion.

On September 10, 2010, Staff filed a Motion seeking an extension of time to October 19, 2010 to file a proposed or amended rule.

On October 1, 2010, SPS filed its Application for Approval of Modified 2011 Plan ("Application"), supported by the Direct Testimony of Lee Gabler and Richard Luth, which is the subject of this Certification of Stipulation. In its Application, SPS asked that the Commission (i) accept its 2011 Energy Efficiency and Load Management Plan Compliance Report; (ii) approve its modified 2011 Energy Efficiency and Load Management 2011 Plan; (iii) approve and authorize SPS's recovery of its modified 2011 Plan costs through its proposed tariff rider; (iv) grant SPS's request to extend the deadline for the evaluation of the 2010 Showerhead Pilot program until November 1, 2010; and (v) grant to SPS all other approvals and authorizations that may be required under the Efficient Use of Energy Act, 17.7.2 NMAC; and the New Mexico Public Utility Act. For its 2011 Residential Segment programs, SPS proposed (i) minor modifications to its Electric Water Heating Rebates, Home Lighting, Low Income, Refrigerator Recycling, Saver's Switch, and School Education Kits Programs; (ii) significant modifications to the Home Energy

Services Program; and (iii) a new Consumer Behavior Program. For its 2011 Business Segment Programs, SPS proposed (i) minor modifications to the Custom Efficiency, Cooling Efficiency, Lighting Efficiency, Motor and Drive Efficiency, and Saver's Switch Programs; and (ii) significant modifications to the Interruptible Credit Option and Small Business Lighting Programs.

On October 19, 2010, Staff filed its Compliance Affidavit Regarding Decretal paragraph "L" of the Certification of Stipulation Adopted by the Commission in its March 11, 2010 Final Order in the Proceedings, which proposes an amended rule.

On October 22, 2010, SPS, CCAE and Staff filed a document entitled Signatories' Response to the Compliance Report of SPS Filed October 1, 2010 ("Response"). In the Response, the Signatories proposed application of § 2.3(d) of the Uncontested Stipulation, which provides that SPS shall be required to file an application for approval of a new 2011 Plan that will supersede the 2011 Plan provisionally approved. The Signatories stated, however, that SPS, through the filing of its Application had filed the required application under § 2.3(d). The Signatories requested the opportunity to fully consider the proposed modified 2011 Plan and recommended that the Commission reopen this case or open a new docket.

On October 26, 2010, the Commission issued an Order Reopening Case for Consideration of Proposed Modifications to SPS's 2011 Plan, stating that "[t]his Docket is reopened for the purpose of consideration of SPS's proposed modifications to its 2011 Energy Efficiency Plan."

On November 1, 2010, SPS filed a Supplemental Compliance Report and the Supplemental Direct Testimony of Lee Gabler.

On November 2, 2010, the Commission issued an Order designating the undersigned as Hearing Examiner for this case.

On November 3, 2010, the Hearing Examiner issued an Order scheduling a November 9, 2010 pre-hearing conference.

On November 8, 2010, the Hearing Examiner issued an Order rescheduling the pre-hearing conference to November 15, 2010.

On November 16, 2010, the Hearing Examiner issued a Procedural Order and Notice of Hearing which, among other things: (i) required SPS to mail to its customers and publish the Notice attached to the Procedural Order; (ii) set a January 7, 2011 intervention deadline; (iii) set a January 13, 2011 deadline for filing Staff/Intervenor Testimony; (iv) set a January 20, 2011 deadline for filing Rebuttal Testimony; and (v) scheduled a public hearing on February 2, 2011.

On December 2, 2010, CCAE filed a Motion for Leave to Intervene and Request for Discovery.

On December 21, 2010, SPS filed Affidavits attesting that it mailed the Notice to its customers on December 8, 2010, and published the Notice in the *Roswell Daily Record* on November 21, 2010, the *Quay County Sun* on November 24, 2010, the *Carlsbad Current-Argus* on November 21, 2010, the *Clovis News Journal* on November 21, 2010, the *Portales News-Tribune* on November 21, 2010, and the *Hobbs News-Sun* on November 21, 2010.

On January 7, 2011, (i) Staff filed an Unopposed Motion to Amend the Procedural Schedule; and (ii) Western Resource Advocates (“WRA”) filed a Motion for Leave to Intervene and Request for Discovery.

On January 10, 2011, the Hearing Examiner filed (i) an Amended Official Service List; and (ii) an Order Granting Staff’s Unopposed Motion to Amend the Procedural Schedule. The latter Order amended the Procedural Order and Notice of Hearing to order that (i) by January 13, 2011, Staff shall, and Intervenors may, file Direct Testimony or an Uncontested Stipulation shall be filed; and (ii) by January 20, 2011, Rebuttal Testimony may be filed or SPS and Staff shall, and Intervenors may, file Testimony in Support of an Uncontested Stipulation.

On January 13, 2011, SPS, Staff and CCAE filed an Uncontested Supplemental Stipulation.

On January 19, 2011, SPS filed an Errata Notice for Uncontested Supplemental Stipulation Filed in this Case and Notice of Filing of Supplemental Stipulation.

On January 20, 2011, (i) SPS filed the Testimonies Supporting Supplemental Stipulation as Corrected of Lee Gabler and Richard Luth; and (ii) Staff filed the Prepared Testimony in Support of Uncontested Supplemental Stipulation of Jeff Primm.

On January 24, 2011, the Hearing Examiner issued a Bench Request and a Second Bench Request to SPS.

On January 27, 2011, SPS filed its Responses to First and Second Bench Requests.

The public hearing occurred on February 2, 2011. The following counsel appeared: Jeffrey Fornaciari and Jerry Shackelford for SPS; Helga Schimkat for CCAE; and Leslie Padilla for Staff. No person gave oral comment. The following witnesses testified: Howard Geller for CCAE; Lee Gabler and Richard Luth for SPS; and Jeff Primm for Staff. The Hearing Examiner admitted the following exhibits into evidence: Direct Testimony Supporting Modifications to SPS's 2011 Plan of Lee Gabler (SPS Exh. 1); Supplemental Direct Testimony of Lee Gabler (SPS Exh. 2); Supplemental Compliance Report (SPS Exh. 2a); Testimony Supporting Supplemental Stipulation as Corrected of Lee Gabler (SPS Exh. 3); Direct Testimony Supporting Modifications to SPS's 2011 Plan of Richard Luth (SPS Exh. 4); Testimony Supporting Supplemental Stipulation as Corrected of Richard Luth (SPS Exh. 5); Response to First Bench Request (SPS Exh. 6); Response to Second Bench Request (SPS Exh. 7); SPS's 2010 Goal Participants/Budgets & Preliminary 2010 Participants/Expenses (SPS Exh. 8); and Prepared Testimony in Support of Uncontested Supplemental Stipulation of Jeff Primm (Staff Exh. 1). The Hearing Examiner took administrative notice of SPS's 2009 Energy Efficiency and Load Management Annual Report, filed on August 2, 2010.

Following the presentation of evidence, the Hearing Examiner ordered CCAE to file by February 9, 2011, an affidavit of Howard Geller attesting to the truth and accuracy of his testimony. She also ordered SPS to file, by February 9, 2011, (i) Total Resource Cost Test ratios based on actual 2010 results for SPS's energy efficiency and load management programs; and (ii) the per kWh incentive, based on deemed

savings, paid to contractors during 2010 under the pilot energy efficiency showerhead program. The Hearing Examiner stated that it was unnecessary for the participants to file post-hearing briefs.

On February 8, 2011, CCAE filed the Affidavit of Howard Geller.

On February 9, 2011, SPS filed its Response to Third Bench Request.

III. BACKGROUND

The New Mexico Legislature enacted the Efficient Use of Energy Act (“EUEA”) in 2005. The EUEA finds that “energy efficiency and load management are cost-effective resources that are an essential component of the balanced resource portfolio that public utilities must achieve to provide affordable and reliable energy to public utility consumers[.]” NMSA 1978, § 62-17-2(A). The EUEA defines “energy efficiency” as

measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices to result in a decrease in consumption of electricity and natural gas without reducing the amount or quality of energy services[.]

Id., § 62-17-4(F). The EUEA defines “load management” as

measures or programs that target equipment or devices to result in decreased peak electricity demand or shift demand from peak to off-peak periods[.]

Id., § 62-17-4(H).

The EUEA requires public utilities providing electric and natural gas service to New Mexico customers to “acquire all cost-effective and achievable energy efficiency and load management resources available in their service territories.” *Id.*, § 62-17-5(G). “Achievable” means “those energy efficiency or load management resources available to the utility using its best efforts[.]” *Id.*, § 62-17-4(A). This requirement, for public utilities providing electric service, may not be less than savings of 5% of 2005 total retail kilowatt-hour (“kWh”) sales to New Mexico customers in 2014 and 10% of 2005 total retail kWh sales to New Mexico customers in 2020 as a result of programs implemented starting in 2007. *Id.*, § 62-17-5(G).

The EUEA requires the Commission to direct public utilities to evaluate and implement cost-effective programs that decrease energy demand and consumption. *Id.*, § 62-17-5(B). Rule 17.7.2.10 particularly requires utilities to establish energy efficiency programs for their residential customers and allows utilities to establish energy efficiency programs specifically for their low-income customers. Public utilities must obtain Commission approval of energy efficiency and load management programs (collectively referred to as “demand side management” or “DSM” programs) before they are implemented. Public utilities proposing new programs must, before seeking Commission approval, solicit nonbinding recommendations on the design and implementation of the programs from Commission Staff, the Attorney General, the Energy, Minerals and Natural Resources Department and other interested parties. *Id.*, § 62-17-5(E); 17.7.2.8(A) NMAC.

Before approving a program, the Commission must find that the portfolio of programs is cost-effective and designed to provide every affected customer class with the opportunity to participate and benefit economically. NMSA 1978, § 62-17-5(C). The overall design of portfolio offerings must achieve widespread program access and availability within each affected customer class. For the residential class, some utility energy efficiency programs must be designed to enable low income customer participation. A utility must describe the extent to which the proposed programs allow low-income customers to participate, recognizing the financial constraints of those customers. 17.7.2.9(J) NMAC.

The Commission determines the cost effectiveness of DSM programs by applying the “total resource cost test” (“TRC Test”). NMSA 1978, § 62-17-5(C). The EUEA defines the total TRC Test as

a standard that is met if the monetary costs that are borne by the utility and the participants and that are incurred to develop, acquire and operate energy efficiency or load management resources on a life-cycle basis are less than the avoided monetary costs associated with developing, acquiring and operating the associated supply-side resources.

Id., § 62-17-4(J). Only programs that are cost effective are eligible for approval. 17.7.2.9(C)(1) NMAC. To be cost effective, application of the TRC Test to a program must result in a ratio of 1.0 or greater. In its

application, a utility must separately identify and present the assumptions, calculations and other elements associated with the TRC test. 17.7.2.9(G) NMAC.

Under the EUEA, the Commission may direct a public utility to modify or terminate a DSM program, if, after an adequate period for implementation of the program, the Commission determines that the program is not sufficiently meets its goals and purposes. NMSA 1978, § 62-17-8(C); 17.7.2.15 NMAC.

The EUEA requires the Commission to identify regulatory disincentives or barriers for public utility expenditures on DSM measures and ensure that they are removed in a manner that balances the public interest, consumers' interests and investors' interests. It also requires the Commission to provide public utilities an opportunity to earn a profit on DSM resource development that, with satisfactory program performance, is financially more attractive to the utility than supply-side utility resources. NMSA 1978, § 62-17-5(F).

The EUEA allows a public utility that undertakes cost-effective programs to recover its prudent and reasonable costs along with commission-approved incentives for demand-side resources and load management programs through an approved tariff rider or in base rates, or by a combination of the two. NMSA 1978, § 62-17-6(A). Tariff riders shall be assessed on a percentage-of-bill basis unless the utility demonstrates that its proposed tariff rider shall not result in customers paying tariff-rider amounts greater than those authorized by statute. 17.7.2.12(C)(4) NMAC.

The EUEA requires a public utility, every three years, to submit to the Commission a comprehensive measurement, verification and program evaluation report ("M&V Report") prepared by an independent program evaluator. NMSA 1978, § 62-17-8(B). An evaluation committee selected ADM Associates, Inc. ("ADM") as the independent evaluator for 2009 and 2010 utility programs. Under 17.7.2.13 NMAC, public utilities providing DSM programs must file annual reports which contain, among other things, the most recent M&V Report of the independent program evaluator. On August 2, 2010, SPS filed its 2009 Energy

Efficiency and Load Management Annual Report, which contains ADM's M&V Report of SPS's DSM Programs for calendar year 2009 ("2009 M&V Report"). Tr. at 44.¹

IV. DISCUSSION

A. OVERVIEW OF 2011 PLAN

In its Application filed on October 1, 2010, SPS sought approval of a Modified 2011 Plan. SPS's Modified 2011 Plan proposed both significant and minor modifications to the provisionally approved 2011 Plan. After SPS filed its Application, SPS, CCAE and Staff ("the Stipulating Parties") entered into a Supplemental Stipulation, which was filed on January 13, 2011. On January 19, 2011, SPS filed an Errata Notice to the Supplemental Stipulation and Notice of Filing of Corrected Supplemental Stipulation. In the Corrected Supplemental Stipulation ("Supplemental Stipulation"), the Stipulating Parties agree to modify the provisionally approved 2011 Plan to include (1) the changes proposed in SPS's Modified 2011 Plan; and (2) stipulated modifications and additions set forth in the Supplemental Stipulation. Gabler Testimony in Support of Supp. Stip. at 11.² The other parties to this case — the New Mexico Attorney General, Intrepid Potash, New Mexico Gas Company, and WRA — take no position on the Supplemental Stipulation. *Id.* at 5. Thus, the Supplemental Stipulation is unopposed. Unless otherwise indicated, this Certification of Stipulation discusses the 2011 Plan as proposed under the Supplemental Stipulation. References to the "2011 Plan" are to SPS's Modified 2011 Plan, as proposed in SPS's October 1, 2010 Application and as modified by the Supplemental Stipulation.

¹ References to the transcript are to "Tr. at _____."

² References to prefiled testimony are to the last name of the witness followed by the title of the testimony.

The 2011 Plan proposes seventeen DSM programs — the same sixteen programs that were provisionally approved by the Commission plus a new Consumer Behavior Program. The Programs are:

Residential Segment:

1. Consumer Behavior
2. Electric Water Heating Rebate
3. Evaporative Cooling Rebate
4. Home Energy Services
5. Home Lighting & Recycling
6. Low-Income
7. Refrigerator Recycling
8. School Education Kits
9. Residential Saver's Switch

Business Segment:

1. Business Saver's Switch
2. Cooling Efficiency
3. Custom Efficiency
4. Interruptible Credit Option
5. Large Customer Self-Direct
6. Lighting Efficiency
7. Motor & Drive Efficiency
8. Small Business Lighting

The 2011 Plan budget is \$10,886,691. The Plan seeks to achieve savings at the generator of 37,357,603 kWh. Exh. B to Supplemental Stipulation. The 2011 Plan incorporates the following changes from the provisionally-approved 2011 Plan: a 3,543,301 kWh increase in the energy goal; a 3,647 kW decrease in the demand goal, and a \$2,382,379 increase in the budget. Exh. BR1-4 to SPS's Response to First Bench Request. Of the \$2,382,379 increase in the budget, a \$1,613,000 increase has already been approved by the Commission by its September 9, 2010 Order Granting SPS's Motion to Modify Budget for Approved 2010 Home Energy Services and Small Business Lighting Programs. The 2011 Plan proposes a \$156,333 increase in the budget from the Modified 2011 Plan that SPS proposed in its October 1, 2010 Application. Supplemental Stipulation, § 1.2(a).

The Supplemental Stipulation is Exhibit A to this Certification of Stipulation. Exhibit B to the Supplemental Stipulation sets forth the 2011 Plan budget and goals by Program.

The Stipulating Parties submit that the Supplemental Stipulation represents a just and reasonable resolution of all issues related to SPS's 2011 Plan/Programs and is consistent with the public interest. Supplemental Stipulation at 1.

B. SIGNIFICANT MODIFICATIONS TO PROVISIONALLY APPROVED 2011 PLAN

1. HOME ENERGY SERVICES PROGRAM

This existing Program provides incentives to contractors to install a wide range of energy savings measures that decrease energy costs. The Stipulating Parties propose to increase the budget and savings goal for this Program in 2011 largely because of the Program's very strong performance in 2010. Part of the proposed increase is to fund, in the amount of \$75,000, an energy efficient showerhead measure. The Commission approved, as part of SPS's 2010 Plan, an energy efficient showerhead pilot program with a budget of \$15,000 for the installation of approximately 260 energy efficient showerheads. The 2010 Plan called for SPS to evaluate the Pilot by October 1, 2010, and, if the evaluation were to show that showerheads are a viable, cost effective measure, to propose a modification to establish a full showerhead component under the Home Energy Services Program at a budget of no more than \$138,000. Uncontested Stipulation, ¶ 2.1(d).

Under the proposed showerhead measure, a contractor would purchase and install a low-flow showerhead. SPS would pay the contractor \$53.92 per showerhead for program delivery plus an incentive of \$5.79 per showerhead. Att. LEG-STIP-2 at 47³; SPS's Response to Third Bench Request. Showerheads would only be installed in homes with electric water heaters. Gabler Supp. Direct at 10.

³ Att. LEG-STIP-2 is Attachment 2 to Lee Gabler's Testimony Supporting Supplemental Stipulation as Corrected. References to page numbers of this Attachment are to the page numbers in the upper right corner of the Attachment.

SPS's evaluation shows that the showerhead measure is viable and cost effective. Between July 29, 2010 and September 29, 2010, 242 showerheads were installed in homes with electric water heating. Supplemental Compliance Report at 1. The key findings of the evaluation are:

- Approximately 97% of customers stated their intent to leave the new showerhead in place, indicating an expectation of high persistence;
- Free-riders consist of approximately 6.4% of the population, resulting in a net-to-gross ratio of 93.6%;
- The demand savings was 0.057 kW per showerhead, an increase from the 0.030 kW estimated deemed savings assumption. The energy savings was 499 kWh per showerhead, an increase from the 252 kWh estimated deemed savings assumption; and
- Water savings were 5,682 gallons per year, an increase from the 1,258 estimated deemed savings assumption, resulting in operating and maintenance water savings of approximately \$20.00 per year.

Gabler Supp. Direct at 6-7. SPS projects a TRC Test ratio for the showerhead measure alone of 2.30 and for the Home Energy Services Program, including the 2011 showerhead measure, of 3.28. *Id.* at 8. SPS's goal is to install 1,185 showerheads as part of the 2011 Plan. *Id.* at 11.

2. SMALL BUSINESS LIGHTING PROGRAM

This existing Program offers free lighting audits and rebates for lighting upgrades and special services to small and mid-size business facilities with peak demand up to 400 kW. The Stipulating Parties propose to increase the budget and savings goal for this Program in 2011 because of growing awareness and interest in the Program among trade partners and SPS small business customers. The increased Program budget would cover new rebates for emerging lighting technologies and compensation to Franklin Energy, SPS's third-party implementation vendor, to convert incremental lighting opportunities. Gabler Direct at 17. Based on ADM's M&V analysis of SPS's 2009 Small Business Lighting Program, SPS proposes to change technical assumptions for the Program. Att. LEG-1 at 17 to Gabler Direct.

3. INTERRUPTIBLE CREDIT OPTION PROGRAM

This existing Program offers bill credits to customers who allow SPS to interrupt their electric demand. Participants are notified during periods of high demand that SPS will interrupt their load. In return, participants receive a monthly bill credit that varies depending on how much load they are willing to have interrupted and how far in advance that they receive notification. Currently, participants must agree to a three-year contract term. Att. LEG-STIP-2 at 77.

Because of the need for interruptible load in New Mexico and the lack of success in attracting participants to this Program, SPS proposes several changes to this Program. First, SPS proposes to expand eligibility from customers with 500 kW or more of contract interruptible load to customers with 300 kW or more of contract interruptible load. Gabler Direct at 18.

Second, SPS proposes to offer two new options: a summer only interruptible credit option and a voluntary load reduction purchase option. The summer only interruptible credit option would offer a summer-only contract term — June through September — that would have to be renewed annually. SPS would evaluate its resource needs and, if short-term resources are needed, solicit participation in the Program option. Participants would bid interrupt options and price by March 15 of each year. Before accepting a bid, SPS would weigh the bid against forecasted supply-side costs. Att. LEG-STIP-2 at 79.

The voluntary load reduction purchase option would allow participants to provide load reduction on a strictly voluntary basis and receive compensation based on the market price for electricity at the time of the reduction. This option would be available in exceptional situations when sufficient lead time is available to reach agreement with participants on specific terms. *Id.* at 78; Tr. at 34-35.

The current version of SPS's Interruptible Credit Option Program was first offered in 2010. The current Program replaced a business interruptible program that SPS previously offered outside its DSM portfolio. Att. LEG-STIP-2 at 79. In 2010, the Program had zero participants, compared to five projected participants. SPS's preliminary analysis indicates that it spent \$15,766 on the Program in 2010. SPS

calculated a TRC Test ratio of zero for the Program in 2010. Exh. BR3-1 to SPS's Response to Third Bench Request. SPS proposes to continue the Program despite its poor performance. Mr. Gabler testified that he believes the Interruptible Credit Option Program will have participants in 2011 in response to the proposed changes to the Program for 2011. He explained that SPS is proposing the summer-only option, with its shorter term contract, specifically in response to customer feedback about why customers would not participate in the existing Program. Tr. at 42. Staff and CCAE also recommend continuation of the Interruptible Credit Option Program. *Id.* at 7-11, 58.

4. CONSUMER BEHAVIOR PILOT PROGRAM

This new proposed program is based on OPOWER's Energy Feedback System. Under the Program, OPOWER would prepare and mail home energy reports to 15,000 randomly-selected residential customers up to six times per year. A home energy report would provide customers information on how their household electricity use compares to the electricity use of comparable SPS households and an energy efficient household. The philosophy of the Program is that when customers have knowledge about their electricity consumption when compared to their previous usage and their neighbors' use, they will be moved to decrease their consumption. Att. LEG-1 at 16 to Gabler Direct; Tr. at 33. SPS proposes the Program to begin in mid-2011. Gabler Direct at 20.

The 2011 Consumer Behavior Program has a \$251,500 budget. It does not have energy savings associated with it in 2011. *Id.* at 21. Based on previous research and the results of consumer behavior programs throughout the country, SPS expects this Program to result in first-year reductions in electricity use averaging 2%. Att. LEG-STIP-2 at 37. SPS states that the persistence of savings from feedback is key to the Program's cost effectiveness. To assess persistence, SPS would monitor results for up to three program years after start-up. *Id.* at 38. Program savings would be measured by comparing the Participant Group to a Control Group of approximately 15,000 to 20,000 non-participant customers. *Id.* at 40.

SPS has been developing an online application, My Account, to enable customers to access account billing and usage information online. SPS activated the site on September 13, 2010. Features under development would enable the My Account site to provide SPS customers with feedback on energy use and conservation information both efficiently and at low cost. However, because these features are not yet developed, SPS has concerns about committing to this option for 2011. Therefore, SPS is proposing the OPOWER alternative at this time. Gabler Direct at 20.

C. MINOR MODIFICATIONS TO PROVISIONALLY APPROVED 2011 PLAN

1. *ELECTRIC WATER HEATING REBATES PROGRAM*

This existing Program provides a \$450 rebate for installation of solar water heating systems and heat pump water heaters. The Program also offers a \$40 rebate for electric resistance water heaters, only for existing homes with electric water heating. The only proposed modification relating to this Program in 2011 is to decrease the incremental cost assumption for solar water heating from \$1,785 to \$1,150 to better reflect market conditions. This modification increases the projected 2011 TRC Test ratio for the Program from 1.59 to 1.85. Att. LEG-1 at 11 to Gabler Direct.

The Electric Water Heating Rebates Program was first offered in April 2010. Tr. at 18. Between its launch and December 31, 2010, it had zero participants, compared to 145 projected participants. SPS's preliminary analysis shows that it spent \$9,623 on the Program during 2010. For 2010, its TRC Test ratio was zero. Exh. BR3-1 to SPS's Response to Third Bench Request. As of February 2, 2011, it had one participant in 2011. Despite the Program's poor performance, SPS recommends its continuation. Mr. Gabler testified that SPS would increase its marketing of the Program in 2011 both to customers and to vendors and retailers who sell the water heaters. He further stated that SPS will have more online marketing capability in 2011. Tr. at 18, 40. Staff and CCAE also recommend continuation of the Electric Water Heating Rebates Program. *Id.* at 7-11, 55.

2. *HOME LIGHTING & RECYCLING PROGRAM*

This existing Program provides incentives to retailers to sell compact fluorescent light bulbs (“CFLs”) and free recycling of CFLs. As a result of ADM’s M&V analysis of SPS’s 2009 Home Lighting and Recycling Program, SPS proposes to change technical assumptions for the Program. Also, the Stipulating Parties propose to increase the rebate budget to attract more participation from potential and existing retailers and to increase the promotion budget to provide additional contingency funding for promotion and advertising should the Program experience a shortfall in participation/sales of CFLs. Att. LEG-1 at 11 to Gabler Direct.

3. *REFRIGERATOR RECYCLING PROGRAM*

This existing Program provides a rebate for recycling secondary refrigerator units. The Stipulating Parties propose to increase the rebate per refrigerator from \$50 to \$75 to encourage participation. Mr. Gabler testified that the Program has fallen short of its savings goals since its implementation in 2009. Gabler Testimony in Support of Supp. Stip. at 13. In 2010, the Program had 209 participants, compared to projected participation of 500. SPS’s preliminary analysis indicates that the Program passed the TRC Test for 2010 with a TRC Test ratio of 1.25. Exh. BR3-1 to SPS’s Response to Third Bench Request. ADM concluded that the Program passed the TRC Test in 2009 with a TRC Test ratio of 1.37. 2009 Energy Efficiency and Load Management Annual Report. Under the Supplemental Stipulation, SPS would review this Program during 2011 and decide if any changes should be made to the implementation methods. Supplemental Stipulation, § 1.1(a). As a result of ADM’s M&V analysis of SPS’s 2009 Refrigerator Recycling Program, SPS proposes to change technical assumptions for the Program. Att. LEG-1 at 12 to Gabler Direct.

4. *LOW-INCOME PROGRAM*

This existing Program consists of a Home Lighting Giveaway component and a Low-Income Home Energy Services component. In 2010, administration of the Home Lighting Giveaway component was

shared by Low-Income Home Energy Services and the New Mexico LIHEAP (Low Income Home Energy Assistance Program) agencies. The Stipulating Parties propose to move administration of the Home Lighting Giveaway component to the third-party energy service companies who implement the Low-Income Energy Services component. Third-party installation contractors would install CFLs at qualifying customer homes. The Stipulating Parties propose this change because the LIHEAP market is becoming saturated and LIHEAP agencies have difficulty distributing all of the bulbs provided by SPS. Gabler Direct at 23; Att. LEG-1 at 11-12 to Gabler Direct. Also relating to the Home Lighting Giveaway component, and as a result of ADM's M&V analysis of the 2009 Program, SPS proposes to change technical assumptions for the measure. *Id.* at 12.

5. RESIDENTIAL SAVER'S SWITCH PROGRAM

This existing Program provides bill credits to residential customers who allow SPS to control operation of their central air conditioners and electric water heaters on days when the system is approaching peak. SPS did not install switches for the 2010 Plan until the fourth quarter of 2010. As a result, the switches were not in place to provide load relief or energy savings during the 2010 control season. The Stipulating Parties propose to modify the 2011 Plan to reflect cumulative switch installations for 2010 and 2011. Gabler Direct at 24.

SPS proposes to decrease the TRC Test ratio for the Residential Saver's Switch Program from 2.48 to 0.34. This is a result of calculating the TRC Test ratio based on the number of switches installed at the end of a single year rather than on a life-cycle basis. SPS proposes the change to correspond to the preferred method of reporting annual achievements, which includes reporting the impacts of the population of load management programs installed by the end of each year. The single-year TRC analysis results in the Program not being cost effective due to the large initial costs of recruiting participants and installing switches. However, a life-cycle TRC analysis shows that the expected lifetime benefits greatly exceed the expected lifetime costs. *Id.* at 24-25.

In calendar year 2010, there were 902 participants in the Residential Saver's Switch Program, compared to 855 projected participants. Nevertheless, SPS calculated a TRC Test ratio for the Program of zero for 2010 because it did not claim savings for 2010. Exh. BR3-1 to SPS's Response to Third Bench Request.

6. *SCHOOL EDUCATION KITS PROGRAM*

This existing Program distributes free energy efficiency curriculum and activity kits to participating fifth-grade classrooms. As a result of ADM's M&V analysis of SPS's 2009 School Education Kits Program, SPS proposes to change technical assumptions for the Program. Gabler Direct at 25.

7. *BUSINESS SAVER'S SWITCH PROGRAM*

This existing Program provides bill credits to business customers who allow SPS to control operation of their central air conditioners on days when the system is approaching peak. SPS did not install switches for the 2010 Plan until the fourth quarter of 2010. As a result, the switches were not in place to provide load relief or energy savings during the 2010 control season. The Stipulating Parties propose to modify the 2011 Plan to reflect cumulative switch installations for 2010 and 2011. Gabler Direct at 26.

SPS proposes to decrease the TRC Test ratio for the Business Saver's Switch Program from 4.55 to 0.62. This is a result of calculating the TRC Test ratio based on the number of switches installed at the end of a single year rather than on a life-cycle basis. SPS proposes the change to correspond to the preferred method of reporting annual achievements, which includes reporting the impacts of the population of load management programs installed by the end of each year. The single-year TRC analysis results in the Program not being cost effective due to the large initial costs of recruiting participants and installing switches. However, a life-cycle TRC analysis shows that the expected lifetime benefits greatly exceed the expected lifetime costs. *Id.* at 26-27.