BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Application of Nevada Power Company d/b/a NV Energy to establish interim base energy efficiency program rates and base energy efficiency implementation rates pursuant to NRS 704.785 and the Order issued in Docket No. 09-07016. Docket No. 10-10024

Application of Sierra Pacific Power Company d/b/a NV Energy to establish interim base energy efficiency program rates and base energy efficiency implementation rates pursuant to NRS 704.785 and the Order issued in Docket No. 09-07016. Docket No. 10-10025

At a general session of the Public Utilities Commission of Nevada, held at its offices on May 23, 2011.

PRESENT: Chairman Alaina Burtenshaw
Commissioner Rebecca D. Wagner
Commissioner Luis F. Valera
Assistant Commission Secretary Breanne Potter

ORDER

The Public Utilities Commission of Nevada ("Commission") makes the following findings of fact and conclusions of law:

I. INTRODUCTION

Nevada Power Company d/b/a NV Energy ("NPC") and Sierra Pacific Power Company d/b/a NV Energy ("SPPC", collectively with NPC, the "Companies") filed Applications to establish interim base energy efficiency program rates and base energy efficiency implementation rates pursuant to Nevada Revised Statutes ("NRS") 704.785 and the Order issued in Docket No. 09-07016.

II. SUMMARY

The Commission grants the Applications as modified by this Order.

III. PROCEDURAL HISTORY

- On October 25, 2010, NPC filed an Application, designated as Docket No. 10-10024, with the Commission, to establish interim base energy efficiency program rates and base energy
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efficiency implementation rates pursuant to NRS 704.785 and the Order issued in Docket No. 09-07016.

- On October 25, 2010, SPPC filed an Application, designated as Docket No. 10-10025, with the Commission, to establish interim base energy efficiency program rates and base energy efficiency implementation rates pursuant to NRS 704.785 and the Order issued in Docket No. 09-07016.

- The Applications are filed pursuant to the NRS and the Nevada Administrative Code ("NAC"), Chapters 703 and 704, including but not limited to NRS 704.785, NAC 703.535 and NAC 704.9522 through 704.9524.


- The Regulatory Operations Staff ("Staff") of the Commission participates as a matter of right pursuant to NRS 703.301.

- On November 9, 2010, the Attorney General's Bureau of Consumer Protection ("BCP") filed a Notice of Intent to Intervene pursuant to NRS 228.

- On November 23, 2010, the Kroger Co. ("Kroger") and Truckee Meadows Water Authority ("TMWA") filed Petitions for Leave to Intervene.


- On November 29, 2010, the Southwest Energy Efficiency Project ("SWEEP") filed a Petition for Leave to Intervene.


- On December 2, 2010, the Commission conducted a Prehearing Conference at which the Commission granted the Petitions for Leave to Intervene of Kroger, TMWA, SWEEP and World Market.


- On January 20, 2011, the Commission heard oral arguments on the Motion.

- On January 24, 2011, the Commission issued a Procedural Order regarding the filing of legal
briefs on the Motion.


- On January 27, 2011, the Commission issued a Notice of Consumer Session and Notice of Hearing.


- On February 4, 2011, the Commission issued an Order, denying the Motion without prejudice.

- On February 17, 2011, the Commission issued a Notice of Consumer Session.

- On February 18, 2011, the Commission issued a Procedural Order, directing the filing of supplemental testimony.

- On February 23, 2011, the Commission held a consumer session in Las Vegas, Nevada with videoconferencing to Carson City, Nevada.

- On March 8, 2011, the Commission held a consumer session in Elko, Nevada.

- On March 28-31, 2011, the Commission held a hearing. Appearances were made by BCP, the Companies, Kroger, Staff, SWEEP, TMWA and World Market. At the conclusion of the hearing, the Presiding Officer granted an oral motion to accept Exhibits 1 through 75 into the record pursuant to NAC 703.730.

- On April 20, 2011, Staff filed comments as directed by the Presiding Officer at the hearing.

- On April 27, 2010, the Companies filed reply comments as directed by the Presiding Officer at the hearing.


IV. BACKGROUND INFORMATION

1. Senate Bill ("S.B.") 358, now codified at NRS 704.785, was passed by the 2009 Nevada Legislature and became effective May 28, 2009. This legislation provided electric utilities' the opportunity to recover lost revenues associated with energy efficiency and conservation ("EE&C") programs and required the Commission to promulgate regulations to
implement the lost revenue recovery mechanism.

2. As directed by statute, the Commission adopted regulations implementing NRS 704.785 in Docket 09-07016 (NAC 704.95225 through NAC 704.9523), the “Implementing Regulations”). The Implementing Regulations provides for the recovery of EE&C program costs and lost revenues through a balancing account system. The Implementing Regulations became effective July 22, 2010. However, all parties have agreed to use August 1, 2010 as a functional effective date for the Implementing Regulations, for the purposes of administrative and accounting efficiency.

3. Prior to the enactment of S.B. 358, and adoption of the Implementing Regulations, electric utilities deferred the costs associated with EE&C programs. The deferred costs earned interest equal to the authorized rate of return approved in the utility’s last general rate case (“GRC”). In a subsequent GRC, the deferred costs, interest, and an enhanced rate of return of 5% (the “ROE Adder”) were placed into general rates and amortized over a period specified by the Commission.

4. On October 25, 2010, NPC and SPPC filed Applications pursuant to NRS 704.785 and the Implementing Regulations seeking recovery of program costs and lost revenue resulting from their EE&C programs by requesting that the Commission approve an interim base energy efficiency program rate (“EEPR”) and an interim base energy efficiency implementation rate (“EEIR”)

5. The EEPR is designed to recover the utility’s direct costs to deliver EE&C programs to customers (“Program Costs”). EE&C Program Costs include, among other things, labor expenses and payments to implementation contractors, manufacturers and customers who participate in EE&C programs. Under the Implementation Regulation, the Companies recover
EE&C Program Costs through balancing accounts with one-year recovery periods. (Exhibit 2 at 2; Exhibit 9 at 2.)

6. The Companies’ requests use the demand side management (“DSM”) plan approved by the Commission in NPC’s and SPPC’s last Integrated Resource Plan (“IRP”) filings to establish projected Program Costs. Based thereon, the Companies’ direct case requested recovery of $70,573,000 and $12,080,000, which represents the Companies’ anticipated expenditures for EE&C programs in 2011 for NPC and SPPC, respectively. (Exhibit 2 at 8; Exhibit 9 at 8.)

7. The EEIR provides for recovery of the lost revenue associated with EE&C programs. It is intended to eliminate financial disincentives associated with EE&C programs. (Exhibit 2 at 2; Exhibit 9 at 2.)

8. NPC projects that EE&C programs implemented in 2008, 2009, 2010 and 2011 will produce savings of 767,252,984 kilowatt hours ("kWh") in 2011. (Exhibit 67 at 2.) According to NPC, the sales associated with those kWh savings would have yielded approximately $34.6 million of revenue. (Exhibit 67 at 2.)

9. The following table represents NPC’s estimate of the impact of EE&C programs on 2011 sales and revenue:

<table>
<thead>
<tr>
<th>NPC Program Implementation Period</th>
<th>Forecasted 2011 MWh Savings</th>
<th>Forecasted 2011 Lost Revenue ($ Millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Measures installed before 11/30/2008</td>
<td>140,020</td>
<td>$6.9</td>
</tr>
<tr>
<td>Measures installed between 12/1/2008 and 5/31/2009</td>
<td>146,567</td>
<td>$6.5</td>
</tr>
<tr>
<td>Measures installed between 6/1/2009 and 7/31/2010</td>
<td>296,904</td>
<td>$12.8</td>
</tr>
<tr>
<td>Measures installed between 8/1/2010 and 12/31/2010</td>
<td>80,157</td>
<td>$3.4</td>
</tr>
<tr>
<td>Measures installed between 1/1/2011 and 12/31/2011</td>
<td>103,606</td>
<td>$4.9</td>
</tr>
<tr>
<td>NPC Total</td>
<td>767,253</td>
<td>$34.6</td>
</tr>
</tbody>
</table>

10. SPPC projects that EE&C programs implemented in 2009, 2010 and 2011 will
produce savings of 132,082,209 kWh in 2011. (Exhibit 68 at 2.) According to SPPC, the sales
associated with those kWh savings would have yielded approximately $7.44 million of revenue.
(Exhibit 68 at 2.)

11. The following table represents SPPC’s estimate of the impact of EE&C programs
on 2011 sales and revenue:

<table>
<thead>
<tr>
<th>SPPC Program Implementation Period</th>
<th>Forecasted 2011 MWh Savings</th>
<th>Forecasted 2011 Lost Revenues ($ Millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Measures installed between 6/1/2009 and 7/31/2010</td>
<td>54,839</td>
<td>$3.1</td>
</tr>
<tr>
<td>Measures installed between 8/1/2010 and 12/31/2010</td>
<td>39,088</td>
<td>$2.2</td>
</tr>
<tr>
<td>Measures installed between 1/1/2011 and 12/31/2011</td>
<td>38,164</td>
<td>$2.1</td>
</tr>
<tr>
<td>SPPC Total</td>
<td>132,082</td>
<td>$7.4</td>
</tr>
</tbody>
</table>

12. The issues presented in this proceeding are:

- the appropriate amount of program costs that should be included in NPC’s and
  SPPC’s EEPR;
- the appropriate amount of lost revenues that should be included in NPC’s and SPPC’s
  EEIR; and
- how the program costs and lost revenue costs should be allocated among NPC’s and
  SPPC’s customers.

Additionally, there are certain miscellaneous issues arising from this proceeding.

V. PROGRAM COST RECOVERY – THE EEPR

A. TRANSITIONAL ISSUES

13. As noted above, prior to the effective date of the Implementing Regulations,
which for present purposes is August 1, 2010, EE&C Program Costs were deferred and
recovered in each Company’s subsequent GRC. Beginning on August 1, 2010, EE&C Program
Costs incurred are recovered according to the Implementing Regulations.
i. EE&C Program Costs Incurred Prior to Certification

14. EE&C Program Costs incurred before the end of certification in each of the Companies' most recent GRCs, November 30, 2008 and May 31, 2010 for NPC and SPPC respectively ("Certification Dates") are currently recognized in both Companies' rates and not a matter in dispute in this proceeding.¹

ii. EE&C Program Costs Incurred Between the Certification Dates and August 1, 2010

15. Program costs incurred after the Certification Dates and before August 1, 2010 pre-date adoption of the Implementing Regulations.

16. The Companies represented that they would seek to recover these program costs in an appropriate GRC with interest, but not the ROE Adder, since the regulation allowing the ROE Adder was repealed as of the effective date of the Implementing Regulations. (Tr. at 54.) No party objected to this procedural mechanism, and the recovery of these costs is not at issue in the instant dockets. (Tr. at 59.)

iii. EE&C Program Costs Incurred Between August 1, 2010 and December 31, 2010

17. EE&C program costs incurred between August 1, 2010 and December 31, 2010 are subject to recovery in the Companies' Applications designated as Docket Nos. 11-03003, 11-03004 and 11-03005. The recovery of these program costs is not at issue in the instant dockets. (Oral Argument Tr. at 56.)

iv. EE&C Program Costs Incurred Between January 1, 2011 and December 31, 2011

18. In the present dockets and through the EEPR, the Companies seek recovery of only those program costs to be expended from January 1, 2011 to December 31, 2011. (Exhibit

¹ Docket No. 08-12002, Order issued June 24, 2009; Docket No. 10-06001, Order issued December 23, 2010.
The parties to this docket do not dispute that the Implementing Regulations provide for recovery of these EE&C program costs. The Companies’ Applications are consistent with NRS 704.785 and the methodology set forth in the Implementing Regulations. The disposition of certain of the Companies’ specific requests are discussed in subsequent sections below.

B. EE&C PROGRAM COST BUDGETS

20. NPC requests Commission authority to establish an EEPR to recover approved 2011 Program Costs in the amount of $70,573,000 based on the EE&C program budgets approved in NPC’s most recent IRP, Docket No. 10-02009.

21. SPPC requests Commission authority to establish an EEPR to recover 2011 Program Costs in the amount of $12,080,000 based on the EE&C program budgets requested in SPPC’s most recent IRP, Docket No. 10-07003.

22. The Companies’ requests for recovery of Program Costs for IRP-approved 2011 EE&C programs are also affected by the resource planning process in that those programs are deemed prudent pursuant to NRS 704.110(11). However, in order to recover the costs of an IRP-approved program the Companies have a continuing burden of proof to address the justness and reasonableness of those costs. The Parties identified issues and raised concerns regarding the extent to which program costs for certain EE&C programs should be placed in the EEPR at this time.

23. As set forth below, the EE&C programs for which program cost recovery should be adjusted at this time are: NPC’s Demand Response Program; NPC’s and SPPC’s Low Income Weatherization programs; and NPC’s and SPPC’s Residential Lighting programs.
i. NPC's Demand Response Program Budget

NPC's Direct Position

24. NPC seeks recovery of approximately $33.5 million in program costs for its 2011 Demand Response program budget. (Exhibit 3 at 61.)

Staff's Position

25. Staff recommends increasing NPC's 2011 Demand Response program budget by $6,895,082 due to a November 24, 2010 compliance filing in Docket No. 10-02009 (the "Demand Response Compliance"). In Docket No. 10-02009, the Commission rejected the base Demand Response budget and directed NPC to file a revised high Demand Response budget. The Demand Response Compliance reflected the adoption of the high Demand Response program budget by the Commission. The Demand Response Compliance was filed after the instant Application was filed and was not reflected in NPC's direct position. (Exhibit 42 at 3.)

NPC's Rebuttal Position

26. NPC recommends that the Commission accept Staff's proposed $6,895,082 increase to the Demand Response program budget. (Exhibit 57 at 3.) The IRP was originally created with the assumption that the EE&C programs would be approved in early 2010. NPC's IRP filing in Docket No. 10-02009, including the increase in the Demand Response program budget, was not approved by the Commission until late July 2010. At that time, it was not possible to create a 2010 plan for the Demand Response program that had a reasonable chance of meeting commitments in such a limited timeframe. NPC delayed spending funds in 2010 and shifted those unspent funds to its 2011 and 2012 Demand Response program budgets in the Demand Response Compliance. (Tr. at 227.)
NPC’s Supplemental Position

27. NPC identified an alternative 2011 Demand Response program budget. The alternative Demand Response program budget is designed to reduce 2011 Program Costs by $15,000,000. The alternative 2011 Demand Response program budget provided by NPC would delay the installation of a majority of the commercial and industrial portion of the 2011 Demand Response program. (Exhibit 20 HSE-7 at 3; Exhibit 20 at 16.)

28. According to NPC the delay will more closely align commercial and industrial capacity with NPC’s resource requirements and increase the Demand Response program’s benefit to cost ratio. Delaying the implementation of the commercial and industrial portion of the Demand Response program provides the Commission with a significant option to rebalance the cost and benefits of NPC’s EE&C programs and will not require the abrogation of cost commitments or other contracts. (Exhibit 20 at 16-17; Tr. at 596.)

29. NPC had excess generation capacity (“long position”) when the EE&C programs were accepted in Docket No. 10-02009. NPC’s long position has increased since that time. (Tr. at 670.)

Commission Discussion and Findings

30. The following table represents the proposed budgets for the 2011 Demand Response program:

<table>
<thead>
<tr>
<th>Filing</th>
<th>Demand Response Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>NPC Application</td>
<td>$33,560,000</td>
</tr>
<tr>
<td>Staff Adjusted</td>
<td>$40,455,082</td>
</tr>
<tr>
<td>NPC Rebuttal Adjusted</td>
<td>$40,455,082</td>
</tr>
<tr>
<td>NPC Supplemental Adjusted</td>
<td>$25,455,082</td>
</tr>
</tbody>
</table>

(Exhibit 18 at 2; Exhibit 42 at 3; Exhibit 57 at 3; Exhibit 20 at 16.)

31. The Commission finds that the supplemental adjusted Demand Response budget
of $25,455,082 should be accepted. The testimony indicates that NPC is currently in a long position. While NPC is in such a position, program costs can be ramped down to better align the EE&C programs with resource requirements and the Commission’s expectations when originally approving the program budgets. The Demand Response program budget can be reduced to effectuate appropriate rate mitigation without affecting consumer expectations. The reduction will also delay the costs and benefits of the Demand Response program until the energy savings are needed.

ii. Low Income Weatherization Programs

Companies’ Position

32. NPC and SPPC seek recognition in rates of $3,000,000 and $600,000 of budgeted program costs, respectively, for their 2011 Low Income Weatherization programs, which were formerly referred to as the Low Income Weatherization Outsource programs.

33. The Low Income Weatherization Programs, marketed as “Comfort Savings” by both NPC and SPPC, offer home weatherization services to low income residential customers. Participants are not charged for weatherization services provided by the program implementers. (Exhibit 6 at 62.)

34. Measures installed through these programs include compact fluorescent light bulbs (“CFLs”), low flow showerheads, pipe wrap, programmable thermostats, insulation and weather stripping. (Exhibit 6 at 67-68.)

35. In 2009 and 2010, ADM conducted the measurement and verification (“M&V”) of all implemented EE&C programs. ADM’s M&V reports for NPC’s 2009 Low Income Weatherization program describe the implementation contractors’ questionable reporting of the installed CFLs and associated lighting components. Specifically, NPC’s M&V report states:
The data problems encountered were largely with the lighting measures and included nonexistent and misclassified lighting fixtures, inflated lighting counts and inflated lighting duration values. Lighting fixtures turned out to be a phantom measure as no fixtures were installed. Our estimate of lighting effects would have been inflated because of all the duplicate CFL counts in the Data Store.

(Exhibit 6 at 70-72; Tr. at 541-542, 576, 624-625.) (Emphasis added.)

36. SPPC's 2009 Low Income Weatherization program M&V report has language similar to that contained in NPC’s 2009 Low Income Weatherization program M&V Report concerning phantom fixtures and duplicate CFL counts. (Exhibit 11 at 30-32; Tr. at 770).

37. The implementation contractors are responsible for recording the EE&C measures in the Data Store. (Tr. at 577.)

ADM determined that the ex ante savings estimates for CFLs were not reasonable or sufficiently documented. Data errors in the Data Store were directly responsible for 41% of the variance between reported ex ante electric savings and verified ex post electric savings. As discussed above, errors in the lighting data (a) produced errors in the CFL measure, (b) resulted in a lighting fixture measure that did not even exist, and (c) also led to the creation of a composite lighting measure that was grossly flawed.

(Exhibit 6 at 71.)

38. When ADM identified the data quality problems during their on-site visits and realized a regression analysis could not be run, they used the 11 on-site visits to estimate the total energy efficiency savings for the 900 samples (low income houses) for NPC. (Tr. at 582.)

39. The impact of SPPC's energy efficiency measures was examined through a billing analysis using regression modeling of the approximately 300 single family homes. (Exhibit 11 at 29.) The M&V approach involving regression analyses of customer billing data was not effective for the 2009 Low Income Weatherization programs. ADM found data quality and sample size issues that limited the usefulness of the regression approach with the 2009 program
data. (Exhibit 11 at 56.)

40. The data problems encountered for this program were largely related to lighting measures including nonexistent and misclassified lighting fixtures, inflated lighting counts, and inflated lighting duration values. (Exhibit 4 at 70.) The Companies did not know the magnitude of nonexistent or misclassified lights and were unable to answer whether contractors had been paid for the nonexistent bulbs. (Tr. at 672-674.)

Commission Discussion and Findings

41. Included in the Applications are the 2008 and 2009 M&V reports, completed by Paragon Consulting Services and ADM, respectively. (Exhibit 57 at 29). Based on ADM’s 2009 M&V Report sponsored by the Companies, and the evidence adduced at hearing and under cross examination, the Commission must determine whether it is appropriate to recognize 2011 program costs associated with the Low Income Weatherization program. ADM’s 2009 M&V reports for both NPC’s and SPPC’s Low Income Weatherization programs use damning language to describe the reliability of the data used to measure and verify lost revenues related to the lighting component of this program.

42. During Commission questioning, the Companies did not provide additional evidence regarding the assertion contained in its M&V reports that the Data Store information contained “nonexistent and misclassified lighting fixtures, inflated lighting counts, and inflated lighting duration values.” (Exhibit 6 at 70-72.) The Companies did not present a witness to respond to questions regarding: the magnitude of the identified problems; whether and to what extent, if any, the Companies responded to correct those problems; and whether adjustments were made to the Low Income Weatherization program as a result of those problems. (Tr. at 674.)
43. The Commission recognizes that the instant proceeding is not a review of the Companies' 2009 programs. Cost recovery of 2009 Low Income Weatherization program costs will be addressed during the appropriate GRC. However, the Companies have the burden of proving that the costs of each program are just and reasonable before they are eligible for rate recovery. Here, the record identifies significant problems in ADM's M&V Report and raises concerns regarding the implementation of this program and its resulting costs. These concerns should affect recovery of the Low Income Weatherization program costs until the Companies are able to identify what actions, if any, have been taken since 2009 to correct these concerns.

44. Based thereon, the Companies have failed to carry their burden of proof to show that the program costs for their respective Low Income Weatherization programs are just and reasonable and therefore eligible for rate recovery. At this time the Commission does not have sufficient information to allow for recovery of non-lighting costs relating to the Low Income Weatherization program.

45. Therefore, the Commission declines to authorize the recovery of all program costs related to the requested budgets of both NPC's and SPPC's 2011 Low Income Weatherization Programs. Given that a balancing account has been established to recover EE&C program costs, the Companies may seek recovery of the Low Income Weatherization program costs in a future proceeding, by providing additional evidence addressing the Commission's concerns as set forth above. The balancing account allows NPC and SPPC sufficient time to identify the correct amount for recovery in their next filing.

iii. **Residential Lighting Program**

Companies' Direct Position

46. NPC seeks rate recognition for $3,541,000 in 2011 Program Costs for its
Residential Lighting program. (Exhibit 3 at 61.) SPPC seeks rate recognition for $2,900,000 in 2011 Program Costs for its Residential Lighting program. (Exhibit 10 at 37.)

47. The Residential Lighting program provides incentives to consumers to encourage retail purchases of energy-efficient lighting products. Incentives are delivered to customers through discounted retail pricing for energy-efficient CFLs and CFL fixtures. (Tr. at 142.)

48. NRS 701.260 establishes a new set of lighting standards in Nevada. Beginning on January 1, 2012 a light bulb sold in the State will be required to have a minimum efficiency of 25 lumens per watt. The guidelines for the implementation of the lighting mandate are to be determined by the Nevada State Office of Energy. With the Nevada baseline standard light bulb increasing in energy efficiency, the energy savings that can be achieved from the Residential Lighting programs will be reduced. (Tr. at 135-136.)

49. In Annual DSM Update Reports, the Companies propose changes to improve EE&C programs, including recommendations identifying which programs should be continued, and which programs should be discontinued in the following year. (Exhibit 18 at 4.)

**BCP’s Position**

50. The reduction in the incremental difference between the new base line light bulb as mandated by NRS 701.260 and the CFLs supplied by the Residential Lighting programs will have the effect of lowering the energy efficiency benefits of the programs. In light of the reduction in benefits, consideration should be given to shutting down the CFL programs in 2012. The very inefficient incandescent light bulbs will no longer be available and the need for the Residential Lighting programs will be diminished. (Tr. at 202-203.)

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2 NRS 701.260(3).
3 NPC and SPPC’s Annual DSM Update Report are to be filed on or about July 1, 2011.
Staff's Position

51. The instant filing was submitted before the Commission's Order in Docket No. 10-07003 (SPPC's IRP) was approved. Staff recommends reducing SPPC's 2011 Residential Lighting program costs to $2,330,000 to align SPPC's instant request with the Commission's Order in Docket No. 10-07003, thereby decreasing the overall 2011 program portfolio budget to $11,510,000 (Exhibit 42 at 5.)

Companies' Rebuttal Position

52. SPPC agrees with Staff's recommendation to reduce its 2011 Residential Lighting program costs to $2,330,000 in order to align SPPC's instant request with the Commission's Order in Docket No. 10-07003, thereby decreasing the overall 2011 program portfolio budget to $11,510,000. (Exhibit 57 at 3.)

53. The Companies estimate that approximately 6,000,000 CFLs were distributed as a result of their Residential Lighting programs between 2008 and 2010. (Tr. at 675-676.) The Companies have approximately 1,000,000 customers statewide, but 20 to 30 percent of customers do not own CFLs, leading to an unequal distribution amongst customers. (Tr. at 676.) A residence has an average of 35 to 40 light bulb sockets, meaning that average penetration of about six CFLs per residence is not significant coverage. (Tr. at 676.)

Commission Discussion and Findings

54. The Commission must determine whether the Residential Lighting programs will be given rate recognition at the Companies' proposed funding levels for the balance of 2011.

55. The testimony provided by the Companies indicates that the Companies are well-positioned with respect to generation capacity. Both Companies' 2010 load forecasts show a surplus in 2012. Testimony in this proceeding provided anecdotal information regarding more
recently prepared forecasts showing an increase in the excess capacity position at NPC. (Tr. at 231.)

56. The Companies' Residential Lighting program has distributed approximately 6,000,000 CFLs. (Tr. at 676.) The Companies assert that this penetration is small compared to the number of lighting sockets. (Tr. at 676-677.) The Commission is not aware of an expectation that the Residential Lighting program reach 100 percent penetration.

57. The Companies report a freecridership rate of approximately 33 percent for the Residential Lighting programs. (Exhibit 45 at KEL-6; Exhibit 46 at 11.) This means that while the program appears to be cost-effective, one in three customers would have made a CFL purchase in the absence of the program.

58. In evaluating the ongoing necessity of the Residential Lighting programs, the Companies and the Commission must also consider the new state-mandated lighting efficiency standard. NRS 701.260(3) provides that between January 1, 2012, and December 31, 2015, no general purpose light bulb may be sold in this State unless it produces at least 25 lumens per watt of electricity consumed.

59. Lighting measures comprise a significant portion of the kWh savings associated with the Companies' EE&C portfolio. In 2009 lighting measures installed through residential programs contributed 34% (NPC) and 41% (SPPC) of the total residential program's kWh savings. (April 4, 2011 Exhibit at 3-4.) Implementing NRS 701.260 will impact the cost-effectiveness and design of all programs that use general purpose lighting to produce kWh savings.

60. The costs associated with the Residential Lighting programs, which offer benefits to the Companies and the system, should be re-evaluated given the new lighting standards.
effective January 1, 2012 and given the current rate impacts on customers.

61. Based on the foregoing, the Commission finds that cost recovery of one-half of the proposed budgets for the 2011 Residential Lighting programs for NPC and SPPC is appropriate at this time. This effectively compensates the Companies for program costs incurred through June 30, 2011. The remaining proposed budget for this program will be evaluated in the next annual DSM update to be filed by NPC and SPPC. Such annual review will allow the Commission to determine whether and to what extent the basic data used in the formation of the Residential Lighting program requires significant modification that affects the choice of resource approved as part of the action plan pursuant to NAC 704.9503(1)(f).

62. Given that a balancing account has been established to recover EE&C program costs, the Residential Lighting program costs not reflected in the EEPR can be reevaluated in the next appropriate filing to adjust the EEPR. This delay will provide sufficient time to reevaluate this program in the Annual DSM Update filing to determine whether and to what extent the Residential Lighting program should be modified given the dictates of NAC 704.9503(1)(f).

63. The Commission recognizes that the Companies may have made commitments related to the Residential Lighting programs to CFL vendors, intermediaries, retail partners and the Companies' customers. The Commission further recognizes the importance of maintaining relationships with these groups to ensure the viability of future programs.

64. The Commission recognizes that additional expenditures may be necessary for these programs after July 1, 2011, including costs required to unwind certain contracts. These expenditures will be reviewed in the same manner as expenditures incurred on or before June 30, 2011. Reductions in other program expenditures could be used by the Companies to offset Residential Lighting program costs. The Commission fully expects an orderly transition, which
honors the Companies’ commitments and reflects the shared value for the Companies’ customers.

65. In their Annual DSM Update, the Companies are directed to file an updated impact assessment for the Residential Lighting program and any other residential EE&C program containing a lighting component including any changes to the program’s budget and expected kWh savings by using the most up-to-date information available. The Companies are also directed to provide an analysis of potential state mandated lighting scenarios that the Companies believe are most likely to be adopted by the Director of the Nevada State Office of Energy. The Commission also expects the information to be presented in a manner that builds on the work the Companies have completed to date.

C. EEPR RATES

66. The following table represents the approved 2011 EE&C Program Costs pursuant to the adjustments made in the paragraphs above:

<table>
<thead>
<tr>
<th>Program</th>
<th>NPC 2011 EEPR Budget</th>
<th>SPPC 2011 EEPR Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Profit Agency Grants</td>
<td>$110,000</td>
<td>$110,000</td>
</tr>
<tr>
<td>Energy Education</td>
<td>$500,000</td>
<td>$340,000</td>
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<td>Low-Income Weatherization</td>
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<td>$0</td>
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<td>Market and Technology Trials</td>
<td>$200,000</td>
<td>$100,000</td>
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<td>Demand Response</td>
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<td>Mobile and Manufactured Homes</td>
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<td>Commercial Retrofit</td>
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<td>$1,060,000</td>
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<td>Energy Plus New Homes</td>
<td>$1,700,000</td>
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<tr>
<td>-------------------------------</td>
<td>------------</td>
<td>-----</td>
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<td>Home Free Nevada</td>
<td>$90,000</td>
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<td>Solar Thermal Water Heating</td>
<td>$930,000</td>
<td>$250,000</td>
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<tr>
<td><strong>Total 2011 EEPR related costs</strong></td>
<td><strong>$57,751,582</strong></td>
<td><strong>$9,745,000</strong></td>
</tr>
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</table>

The Commission directs the Companies to implement EEPR rates for all other programs consistent with the budgets previously approved by the Commission. The Commission finds that, with the modifications discussed herein, both EEPR budgets will result in just and reasonable rates for customers and are in the public interest.

67. In order to properly tailor 2012 program budgets to present circumstances, NPC and SPPC shall include proposed budgets for 2012 EE&C programs that include base, high and low DSM scenarios in their next respective Annual DSM Update.

VI. EE&C LOST REVENUE RECOVERY--THE EEIR

A. TRANSITIONAL ISSUES AND STAFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT

68. Staff’s Motion was denied without prejudice at an Agenda meeting of the Commission on February 3, 2011. Staff renewed its Motion at the conclusion of the hearing. (Tr. at 801.)

Staff’s Position

69. Staff asserts that direct recovery of lost revenue pursuant to the Implementing Regulations was meant to replace the ROE Adder. Staff asserts that NRS 704.785 became effective on May 28, 2009, and the Implementing Regulations became effective on June 22, 2010 as required by NRS 233B.070.⁴

70. Staff asks that the Commission reject the Companies’ attempt to include lost

⁴ NRS 233B.070 provides that a permanent regulation is effective on the date the Legislative Counsel files with the Secretary of State the original of the final draft or revision of a regulation.
revenues caused or created by EE&C programs that the Companies implemented before the effective date of the new regulation. (Motion at 6-7.) Staff believes that allowing such recovery would be contrary to law and asks the Commission to rule, as a matter of law, that lost revenue recovery pursuant to the Implementing Regulations is restricted to lost revenues resulting from EE&C programs implemented after the effective date of the Implementing Regulations. (Motion at 1-2.) Staff asserts that the expectation of the Companies, when implementing EE&C programs prior to the effective date of the statutes and/or the Implementing Regulations could only have been to recover the program costs, with carry, added to rate base with the ROE Adder. Because no lost revenue recovery mechanism (other than the ROE Adder) existed in Nevada at that time, the Companies could not have expected greater recovery than what then existed. (Motion at 3.)

BCP's Position

71. BCP states that under the prior regulations cost recovery related to EE&C programs are addressed during the GRC. Costs are recovered through amortization of EE&C program costs, including carrying charges, rate base treatment and the ROE Adder, over a multiyear period. (BCP Joinder at 5; Exhibit 31 at 6.)

72. BCP argues that the EEIRs proposed by the Companies would provide 2011 lost revenue compensation related to programs implemented prior to the Certification Dates in the last GRCs of NPC and SPPC on November 30, 2008 and May 31, 2010, respectively. The Companies provided testimony explaining that lost revenue recovery is necessary due to an increase in the magnitude of EE&C costs not fully reflected in rates. BCP argues that the Companies ignore extra compensation, in the form of the ROE Adder, previously granted and intended to address lost revenues related to such programs. (Exhibit 31 at 8.)
73. BCP maintains that allowing NPC and SPPC to recover lost revenue related to EE&C program measures implemented prior to the effective date of the Implementing Regulations would enable the Companies to receive compensation for 2008, 2009 and 2010 EE&C programs under both the Implementing Regulations and the ROE Adder regulation. Lost revenue compensation granted in this proceeding would be redundant with the ROE Adder compensation that has already been approved for the Companies. Ratepayers should not have to provide redundant compensation to the Companies for the same EE&C programs. (Exhibit 31 at 11.)

74. BCP recommends that the Commission only approve the recovery of lost revenue related to EE&C program expenditures occurring after the Implementing Regulations became effective. Lost revenue related to any program costs incurred prior to the effective date of Implementing Regulations should be compensated with the ROE Adder. Program costs and lost sales occurring after the effective date should be addressed using the Implementing Regulations. The BCP argues that this approach best balances the interests of the ratepayers and the Companies’ shareholders. (BCP Joinder at 5; Exhibit 31 at 16.)

**TMWA and World Market’s Position**

75. TMWA and World Market assert that the Companies are requesting the Commission assume an effective date for the Implementing Regulations that is years before the date that the regulations were actually made effective. TMWA and World Market argue this is contrary to numerous statements made by the Companies in the course of developing the Implementing Regulations in Docket No. 09-07016. Asking for the recovery of costs dating back to 2008 is not only in contravention of NRS 233B.070(1) and the Implementing Regulations itself, it is in contravention of the expectation of all parties to Docket No. 09-07016.
76. During the course of the hearing in Docket No. 09-07016, the Companies’ counsel provided clear assurances that the utility had no intention of seeking program costs or claims for lost revenues that would pre-date the effective date of the Implementing Regulations. Any proposed changes or additions to the Implementing Regulations that parties to Docket No. 09-07016 may have sought to account for recovery of a classification of costs and revenues that were incurred as far back as 2008 were abandoned and all parties focused only on the prospective application of the regulations. The Companies’ intent to look back in time would have fostered a different form of regulations. (TMWA Joinder at 4; World Market Joinder at 4.)

Companies’ Opposition

77. The Companies’ argue that Staff’s Motion should be dismissed on the basis that the Companies have not asked the Commission to apply NRS 704.785 or the Implementing Regulations retroactively. Rather, the Companies seek to recover lost revenue prospectively, requesting only lost revenue incurred after the effective date of NRS 704.785 and the Implementing Regulations. Whether the Companies’ requests constitute retroactive application of the Implementing Regulations depends on when customers realize savings (i.e. when the Companies lose revenue), not when the Companies implement an energy efficiency measure. (Opposition at 3.)

78. Additionally, the Companies argue the Applications are consistent with the Companies’ representations to the Commission and the transition plan submitted in the course of Docket No. 09-07016. The Companies assert they have only sought to recover lost revenue for lost sales occurring in 2011 in the instant dockets. Further, the Companies applied in their respective deferred energy filings in March 2011 to recover revenue lost between August and
December 2010, and do not plan to ask for more than $12 million of lost revenue between the effective date of NRS 704.785 and the effective date of the Implementing Regulations. The Companies also indicated they would draw a bright line on the effective date of the Implementing Regulations, and not seek “double recovery” of costs incurred under the prior regulation and the Implementing Regulations. All program costs incurred before July 22, 2010, have been deferred and will be recovered in a future GRC. (Opposition at 3.)

79. In addition, the Companies argue that the timing of recovery is a legal question. The answer to which turns on whether the Companies ask the Commission to apply NRS 704.785 prospectively or impermissibly ask the Commission to apply NRS 704.785 retroactively. (Exhibit 65 at 4, Tr. at 802.)

80. In order to receive double recovery, the ROE Adder would (1) need to be compensatory and (2) need to be recovered. While the ROE Adder may provide an incentive to promote EE&C programs, it does not and was not intended to entirely compensate the Companies for the lost revenue caused by their investment in EE&C programs. (Exhibit 66 at 4.)

81. The Companies argue that the recovery of lost revenue does not provide an incentive, it only removes a recognized financial disincentive. Pursuant to NRS 704.785(1)(a)(1), regulations must remove such disincentives. In addition, NRS 704.785(1)(b) provides that the regulation may include “any financial incentive to support the promotion of the participation of the customers of the electric utility in the energy efficiency and conservation programs....” BCP’s testimony demonstrates that the inclusion of the ROE Adder in SPPC’s most recent GRC does not remove the financial disincentives addressed by NRS 704.785(1)(a)(1). (Exhibit 66 at 6.)

82. With respect to the issue of pre-certification lost revenue, the Companies assert
that revenues are also based on EE&C programs implemented in the 12-month certification period of each Company's respective GRC. The Companies argue that a customer who installs a CFL at the beginning of the eighth month of the certification period will realize energy savings in months eight, nine, ten, eleven and twelve of the period. However, when the Companies annualize billing determinants for months one through seven, the customer's usage is at the higher rate. The customer's usage is based on his conduct prior to the installation of the CFL. The Companies average that higher rate and the Companies project it forward. This systematically overstates sales because the Companies do not annualize in their billing determinants the effect of the installation of the CFL in the eighth month. The Companies only account for the CFL going forward, and all of the prior months' averages for that customer will include the higher usage.

**Commission Discussion and Findings**

83. The issue presented in Staff's Motion is the extent to which the Companies can recover lost revenues in the instant proceeding in light of the transition between the ROE Adder regulations and the Implementing Regulations.

84. The Commission believes the Legislature identified a category of costs eligible for recovery and required the Commission to adopt regulations authorizing such recovery through NRS 704.785. The most reasonable interpretation of that language is that measured and verified lost revenues which occur after the effective date of the Implementing Regulations are eligible for recovery through the EEIR.

85. The Companies' proposal to recover lost revenue associated with EE&C programs implemented prior to the Certification Dates of NPC and SPPC is rejected. The program costs and the appropriate recovery incentives for pre-Certification Date implemented
programs are reflected in current rates. The Companies received treatment under the regulations that were in place at the time their respective GRC applications were filed. The Companies received authority to recover those costs that the Commission deemed just and reasonable, along with the ROE Adder. The rates established in the GRC were based on the billing determinants adopted by the Commission.

86. To adjust rates as proposed by the Companies for this particular time period would be retroactive ratemaking. The last GRC of each Company accounted for the then allowed cost recovery associated with EE&C programs implemented prior to the Certification Dates. Commission Orders are prima facie lawful and deemed just and reasonable until set aside by a court. There was no challenge to the Commission’s Orders in either GRC. Based on the foregoing, the Commission finds that NPC may not recover lost revenue associated with programs implemented prior to November 30, 2008, NPC’s Certification Date; SPPC may not recover lost revenue associated with programs implemented prior to May 31, 2010, SPPC’s Certification Date.

87. The Commission must also consider whether the lost revenue recovery attributable to EE&C programs implemented after the Certification Dates and before the effective date of the Implementing Regulations but incurred by the Companies after the effective date of the Implementing Regulations constitutes retroactive application of the Implementing Regulations.

88. NRS 704.785 and the Implementing Regulations allow the Companies to

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5 NRS 703.374(2).
6 Although the Companies assert the ability to seek lost revenue incurred after May 28, 2009, the date NRS 704.785 was adopted, the Companies note in the Applications that they do not plan to ask for more than $12 million of lost revenue incurred between the effective date of NRS 704.785 and the effective date of the Implementing Regulations. (Opposition at 3, lines 11-13.) The plain language of NRS 704.785 and the Nevada case law cited by the Companies do not grant the Commission the authority to apply the Implementing Regulations as of the effective date of the statute.
prospectively recover lost revenue associated with energy savings realized by customers that participate in Company-sponsored energy efficiency programs. Whether lost revenues incurred after adoption of the Implementing Regulations, but attributable to programs implemented after the Certification Dates and prior to the effective date of the Implementing Regulations, are recoverable is not directly addressed by NRS 704.875 or the Implementing Regulations. The Companies' Applications base their requested lost revenue recovery partially upon EE&C programs installed prior to the effective date of the Implementing Regulations. The Company's do not attempt to recover lost revenue actually incurred prior to the effective date of the Implementing Regulations. The recovery requested draws upon past facts, namely the 2008, 2009 and 2010 implementation of EE&C programs, but the Applications do not request retroactive recovery of lost revenue incurred prior to the effective date of the Implementing Regulations. Nevada law provides that a statute that draws upon past facts does not necessarily operate retrospectively. Therefore, the Companies' requests for lost revenue recovery relate to post-Certification Date implemented programs are consistent with the plain language of the Implementing Regulations and do not apply retrospectively.

89. Based on the foregoing, the Commission finds that NPC may recover lost revenue which is measured and verified and occurred after the effective date of the Implementing Regulations associated with programs implemented after November 30, 2008, NPC's Certification Date; SPPC may recover lost revenue which is measured and verified and occurred after the effective date of the Implementing Regulations associated with programs implemented after May 31, 2010, SPPC's Certification Date.

90. Consistent with the findings above, Staff's Motion for Partial Summary Judgment is granted in part and denied in part.

//

B. FREERIDERSHIP AND SPILLOVER

Companies’ Position

91. The Companies seek recovery of lost revenue based on the estimated-gross savings for each EE&C program for calendar year 2011. The Companies calculated lost revenues in accordance with their interpretation of the regulations and estimates of revenue lost due to EE&C programs. The Companies calculated the lost revenue associated with energy savings in gross. (Tr. at 31.)

BCP’s Position

92. BCP opposes the Companies’ calculation of energy efficiency savings. The loads of customers who would have installed a measure, without regard to whether the utility offered a rebate, would have been lost whether or not the utility offered EE&C programs. If there is no net to gross (“NTG”) ratio, the utility would recover revenues that it would have lost in any event. The inclusion of an NTG ratio insures that the Companies are fairly and reasonably compensated, but prevents the utility from being better off as a result of this type of lost revenue recovery protocol. (Exhibit 23 at 5.)

93. The BCP evaluated the three largest residential EE&C programs: Residential Lighting, Residential High Efficiency Air Conditioning (“Residential Air Conditioning”) and Second Refrigerator Collection and Recycling (“Refrigerator Recycling”). BCP found that the Companies overstated energy savings and lost revenue due to each program. The Companies’ calculations do not account for program participants who would have taken energy efficiency measures regardless of the existence of the Companies’ EE&C programs. The Companies assume that all program participants were motivated to act due to the presence of the Companies’
EE&C programs. The BCP believes this assumption is unreasonable. (Exhibit 23 at 5.)

94. BCP recommends that the Commission adopt a 0.80 NTG ratio for the Residential Air Conditioning Program, a 0.75 NTG ratio for the Refrigerator Recycling Program and a 0.70 NTG ratio for the Residential Lighting Program for both Companies. BCP believes the proposed NTG ratios are conservative and understated when compared to recent California evaluations of similar EE&C programs. (Exhibit 23 at 6.) Alternatively, BCP has no objection to the freeridership proposal presented by Staff as outlined below. (Tr. at 209.)

95. BCP states that spillover costs exist to some degree, but does not support the Companies’ position that spillover costs are equal to freeridership. (Tr. at 191.)

Staff’s Position

96. Staff recommends that the Commission estimate projected energy savings net of freeridership for each EE&C program. (Exhibit 47 at 16.) Staff notes that the Companies are allowed to recover only the measurable and verifiable effects on the revenue of the Companies caused by EE&C programs approved by the Commission. (Exhibit 47 at 15.) The Companies are not allowed to recover revenue lost due to other causes, such as general economic conditions or weather. One significant and well-recognized cause for unrealized revenue associated with EE&C programs is freeridership, where customers would have taken energy efficiency measures without any incentives, thereby, reducing the Companies’ revenues in the absence of the Companies’ EE&C programs. (Exhibit 47 at 15.)

97. Staff presented the following freeridership rates for the Companies EE&C programs based on freeridership studies conducted by PA Consulting Group and submitted in each Company’s last respective IRP.

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8 Put differently, the Companies assume the NTG ratio is equal to 1.
9 SPPC does not offer an air conditioner program.
### NPC Residential Portfolio

**Freeridership Rates**

<table>
<thead>
<tr>
<th>Freeridership</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential High Efficiency Air Conditioning</td>
<td>14.50%</td>
</tr>
<tr>
<td>- A/C Replacement</td>
<td>11.30%</td>
</tr>
<tr>
<td>- A/C Tune UP</td>
<td>20.00%</td>
</tr>
<tr>
<td>- Duct Repair and Sealing</td>
<td>20.30%</td>
</tr>
<tr>
<td>Residential Lighting</td>
<td>32.80%</td>
</tr>
<tr>
<td>Energy Plus New Homes</td>
<td>24.70%</td>
</tr>
<tr>
<td>Advanced Building Techniques</td>
<td>24.70%</td>
</tr>
<tr>
<td>In Home Displays</td>
<td>3.00%</td>
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<tr>
<td>Energy Efficient Pools and Spas</td>
<td>20.00%</td>
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<tr>
<td>Second Refrigerator Collection and Recycling</td>
<td>35.60%</td>
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<tr>
<td>Low Income Weatherization</td>
<td>0.00%</td>
</tr>
<tr>
<td>Demand Response</td>
<td>0.00%</td>
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<tr>
<td>Mobile and Manufactured Home Retrofit</td>
<td>27.70%</td>
</tr>
<tr>
<td>Consumer Electronics and Plug Loads</td>
<td>27.20%</td>
</tr>
<tr>
<td>Residential Retrofit</td>
<td>26.20%</td>
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<td>- Residential Energy Efficient Rebates</td>
<td>22.00%</td>
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<td>- Home Free Nevada</td>
<td>30.70%</td>
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<tr>
<td>- Community Block Retrofit Program</td>
<td>30.70%</td>
</tr>
<tr>
<td>Residential Solar Thermal Water Heating</td>
<td>1.00%</td>
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</table>

### NPC Commercial Portfolio

**Freeridership Rates**

<table>
<thead>
<tr>
<th>Freeridership</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial New Construction</td>
<td>19.60%</td>
</tr>
<tr>
<td>- Existing Program</td>
<td>17.90%</td>
</tr>
<tr>
<td>- Mixed Use</td>
<td>19.10%</td>
</tr>
<tr>
<td>- High Performance Building</td>
<td>22.70%</td>
</tr>
<tr>
<td>- Commissioning</td>
<td>21.50%</td>
</tr>
<tr>
<td>- Tenant Improvement</td>
<td>19.80%</td>
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<tr>
<td>Commercial Incentives (Retrofit)</td>
<td>14.90%</td>
</tr>
<tr>
<td>- Existing Program</td>
<td>18.00%</td>
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<tr>
<td>- Enhanced Automation</td>
<td>12.10%</td>
</tr>
<tr>
<td>- A/C Tune Up</td>
<td>10.00%</td>
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<tr>
<td>- Grocery Store</td>
<td>20.00%</td>
</tr>
<tr>
<td>- Retail Office</td>
<td>14.90%</td>
</tr>
<tr>
<td>- Commercial Kitchens</td>
<td>18.50%</td>
</tr>
<tr>
<td>- Industrial</td>
<td>28.90%</td>
</tr>
<tr>
<td>- Data Center</td>
<td>10.60%</td>
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<tr>
<td>- Retro-Commissioning</td>
<td>10.00%</td>
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<tr>
<td>Energy Smart Schools</td>
<td>10.70%</td>
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</table>
- Non-Profit Agency Grants 12.70%
- Demand Response-Commercial 0.00%

<table>
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<tr>
<th>SPPC Residential Portfolio Freeridership Rates</th>
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</thead>
<tbody>
<tr>
<td>• Residential Lighting 33.10%</td>
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<tr>
<td>• Second Refrigerator Collection and Recycling 33.90%</td>
</tr>
<tr>
<td>• Low Income Weatherization 0.00%</td>
</tr>
<tr>
<td>• ES Manufactured Homes 29.60%</td>
</tr>
<tr>
<td>• Consumer Electronics and Plug Loads 33.90%</td>
</tr>
<tr>
<td>• Residential Solar Thermal Water Heating 2.00%</td>
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</table>

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<tbody>
<tr>
<td>• Commercial New Construction 19.60%</td>
</tr>
<tr>
<td>o Existing Program 18.50%</td>
</tr>
<tr>
<td>o Mixed Use 19.10%</td>
</tr>
<tr>
<td>o High Performance Building 22.80%</td>
</tr>
<tr>
<td>o Commissioning 21.80%</td>
</tr>
<tr>
<td>o Tenant Improvement 19.70%</td>
</tr>
<tr>
<td>o Upstream Incentives 17.60%</td>
</tr>
<tr>
<td>• Commercial Incentives (Retrofit) 15.60%</td>
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<tr>
<td>o Existing Program 18.40%</td>
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<tr>
<td>o Enhanced Automation 13.90%</td>
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<tr>
<td>o A/C Tune Up 10.00%</td>
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<tr>
<td>o Industrial 28.90%</td>
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<tr>
<td>o Data Center 10.60%</td>
</tr>
<tr>
<td>o Retro-Commissioning 10.00%</td>
</tr>
<tr>
<td>• Energy Smart Schools 10.70%</td>
</tr>
<tr>
<td>• Non-Profit Agency Grants 12.10%</td>
</tr>
</tbody>
</table>

(Exhibit 45 at 9.)

98. Staff calculated expected 2011 kWh savings by netting the freeridership percentages from the gross savings for each program. For the previous SureBet Hotel/Motel,
Staff used a 20% freeridership rate, as used in NPC's Annual Demand Side Management Report for this program.\footnote{See Docket No. 10-02009, Volume 9, page 223 of 369.} (Exhibit 45 at 3-4.)

**Companies' Rebuttal Position**

99. The Companies argue that the NTG ratios and freeridership rates proposed by BCP and Staff are one-sided. They do not consider countervailing effects, such as spillover. Spillover is defined as additional energy savings that are created by energy efficiency programs delivered by the Companies when a non-participant is influenced by the programs to invest in energy efficiency measures. The measurement of freeridership and spillover is difficult, expensive and subjective. Alternatively, measuring gross savings provides the type of certainty and stability that the Legislature envisioned when it adopted NRS 704.785. An alternative basis for calculating the lost sales revenue requirement—one that relies on projected and actual freeridership and spillover calculations—is subjective and would entail frequent, time consuming and unnecessarily expensive analysis. (Exhibit 57 at 3-4.)

**Commission Discussion and Findings**

100. NRS 704.785(1) directs the Commission to adopt regulations authorizing the Companies to recover the measurable and verifiable effects of EE&C programs on the revenues of the utility. The freeridership rates proposed by Staff were previously submitted by the Companies and relied upon by the Commission to approve the Companies' EE&C programs in the IRP process. The freeridership studies were previously presented by the Companies in order to quantify the measurable and verifiable impacts of the EE&C programs. If the freeridership numbers were sufficiently reliable for the Commission to use in approving the Companies' EE&C programs they are sufficiently reliable to use in measuring and verifying lost revenues from those same EE&C programs. Based thereon, the freeridership analysis presented by Staff
represents an adequate and reasonable estimate of freeridership. The Commission approves a reduction in the amount of lost revenue recoverable as a result of the freeridership rates proposed by Staff. The Commission will continue to use the freeridership rates presented by Staff in this proceeding until the Companies provide freeridership rates that assist the Commission in more accurately measuring and verifying the effects of the freeridership on lost revenue.

101. The Commission rejects the Companies' arguments regarding spillover. Spillover is a theoretical concept that was not, and has never been, previously presented to the Commission in the Companies' IRP or Annual DSM Updates. The Companies have not provided measured or verified estimates of spillover effects. Its assertion that freeridership and spillover offset each other is not supported by any studies. The Commission will not recognize any adjustment for spillover until the Companies present information regarding the measured and verified effects of spillover on lost revenue.

C. LOAD GROWTH

BCP's Position

102. In the future when the Companies experience growth in customer demand for electricity, BCP recommends netting sales growth and lost revenues. (Exhibit 23 at 3; Tr. 178-179.) BCP asserts that lost revenue recovery was initiated to allow the Companies to recover fixed costs between GRCs. (Exhibit 23 at 3; Tr. 181.) Netting sales growth and EE&C lost revenue is necessary to preclude the possibility the Companies would receive a financial incentive. (Tr. 181.) BCP further asserts the Commission may consider limiting lost revenue based on load growth pursuant to its authority to consider ratepayer impact. (Tr. 180.)

Kroger's Position

103. Kroger recommends the Commission consider limiting lost revenue recovery to
the lesser of lost revenues attributable to EE&C programs or actual net reduction in kWh sold. (Exhibit 41 at 9.) Kroger contends the purpose of lost revenue recovery is to allow the utility to recoup fixed costs that would have been foregone due to EE&C program induced sales reductions as opposed to foregone sales opportunities. (Exhibit 41 at 9-10; Tr. 396-397). Rates are designed to allow the utility a fair opportunity to recover costs, not to insure the utility is made whole. (Exhibit 41 at 10.) Ignoring load growth benefits the utility by allowing recovery of fixed costs through lost revenues when at least some costs are recovered through sales growth. (Exhibit 41 at 9.) Customers should not be required to pay lost revenues when the underlying fixed costs have not actually been lost. (Exhibit 41 at 10.)

104. Kroger contends if NRS 704.785 is construed to require the utility be made whole, the statutory requirement that the Commission consider lost revenue impacts upon consumers allows the Commission to consider measuring lost revenues in the manner Kroger proposes. (Exhibit 41 at 10.)

105. Kroger asserts that using the achieved versus authorized rate of return to restrict lost revenue recovery is inferior to its proposed netting methodology. The achieved rate of return methodology is a broader measure for it considers many more rate making aspects than simply changes in sales volumes. (Tr. 430-431.)

Companies’ Rebuttal

106. The Companies’ recommend the Commission deny BCP and Kroger’s proposed growth-based adjustment to lost revenues. Netting lost revenues with incremental sales creates a financial disincentive. Incremental sales growth is normally retained by the utility and used to offset other costs. (Exhibit 66 at 10.)
Commission Discussion and Findings

107. The Commission rejects specifically linking sales growth and lost revenues as this would be contrary to NRS 704.785(1)(b). However, the Commission notes NRS 704.785(3)(b) precludes the Commission from adopting regulations that allow the electric utility to earn more than its authorized rate of return. Therefore, the Commission finds lost revenues are tied to the broader achieved rate of return measure.

D. RESIDENTIAL LIGHTING

Companies’ Position

108. NPC requests lost revenue recovery of 285,742,560 kWh of lost sales attributable to its Residential Lighting Program, with an estimated value of $16,186,537. (Exhibit 3 at 48; Exhibit 3 at 41, 48.)

109. SPPC requests lost revenue recovery of 80,835,868 kWh of lost sales attributable to its Residential Lighting Program, with an estimated value of $4,851,264. (Exhibit 10 at 66; Exhibit 10 at 22, 28.)

110. The Residential Lighting Program results in energy savings as a result of consumers purchasing high-efficiency CFLs to replace less efficient incandescent light bulbs. Several interconnected factors must be evaluated to measure and verify energy savings produced by the Residential Lighting Program. First, the wattage differential between the typical light bulb being replaced and the replacement CFL must be estimated in order to establish an average wattage differential ("Delta Wattage"). Secondly, the number of hours of use ("HOU") per year for the replacement CFL must be estimated. HOU are determined by evaluating factors such as load profile during a 24-hour period and seasonal usage changes. The Companies multiply yearly HOU by the Delta Wattage in order to determine gross energy savings. (Exhibit 6 at 170.)
111. For 2009, the Companies estimate 2.5 HOU per day per installed CFL based on a synthesis of a 2005 California study of HOU by room type with the results of customer surveys conducted by the M&V contractor, ADM Associates, Inc. ("ADM"). The surveys asked participants where they intended to use recently purchased CFLs. The results were analyzed in combination with the California study to estimate average HOU. ADM used this estimate and the estimated Delta Wattage in order to determine lost sales. (Tr. at 115.)

112. The Companies assert that the surveys completed in 2008 and 2009 provide an 80 percent confidence interval. (Tr. at 85-86.) The Companies indicate the presence of bias in the survey was not separately evaluated. (Tr. at 110-111.) The M&V reports state the same installation rate was used for CFLs that were purchased and received for free at a community event, even though there was no analytical basis to support this assumption. (Tr. at 104.)

113. The Companies acknowledge that the Pennsylvania Public Utilities Commission ("PA PUC") adopted an estimated HOU of 1.9 (Tr. at 94.)

Two independent studies (one national and one in California) found that the typical residential lamp is used approximately 1.9 hours per day. Because of the similarity between the distribution of CFLs and fixtures as a whole, daily usage the distribution of CFL and fixtures as a whole, daily usage of CFL's is similar to the of typical households sockets approximately 1.9 hours per day. Given that previous estimates may have used values of 3 hours per day or more, a measured use of 1.9 hours per day would indicated that annual savings estimates may be lower than previously estimated. (Exhibit 17 at 97-98.)

However, the Companies assert that the PA PUC underestimated savings. (Exhibit 17; Tr. at 94.)

**BCP's Position**

114. BCP recommends reducing NPC's and SPPC's kWh savings resulting from its Residential Lighting program by reducing calculated Delta Wattage by 10 percent and estimated HOU by 12 percent. These items are multiplicative with each other and the NTG ratio discussed
in paragraphs 92 to 95. (Exhibit 23 at 6; Exhibit 24 at 1.)

115. BCP notes the Companies relied primarily on the 2005 California KEMA, Inc. (“KEMA”) study to arrive at its HOU figures. A new California HOU was conducted by KEMA in 2009, with the results released in 2010. That study found average HOU in the range of 1.8 to 1.9. (Exhibit 23 at WBM-2 at 1.) Additionally, the Department of Energy published a September 2010 study finding and average HOU of 1.9. (Tr. at 210-211.) The PA PUC study quoted the 2009-10 KEMA study results. (Tr. at 211.)

116. BCP recommends using 2.2 HOU to calculate lost revenue related to CFLs based on the studies cited above. BCP argues that the Companies overestimate HOU on the basis of an older, less reliable study. (Tr. at 194.)

Staff’s Position

117. Staff did not conduct its own study regarding average HOU. However, Staff acknowledges that market saturation plays a role in HOU. (Tr. at 474.)

Companies’ Rebuttal Position

118. The Companies state that approximately 6,000,000 CFLs were distributed between 2008 and 2010 as part of the Residential Lighting programs. (Tr. at 675-676.) The Companies have approximately 1,000,000 customers statewide, but 20 to 30 percent of customers do not own CFLs, leading to an unequal distribution among customers. (Tr. at 676.)

119. The Companies estimated 2.5 HOU for CFLs in 2009 on the basis of 12 surveys at one location in southern Nevada and an additional 12 surveys at one location in northern Nevada. (Tr. at 537.) Energy efficiency program evaluators have observed that during the early years of a residential CFL program, participants install CFLs in relatively high-use sockets. As saturation increases over several years of program implementation, average daily HOU decline.
The Companies’ 2008 CFL programs could have been considered to still be in the early years of implementation. Also during 2008, the Energy Star website provided assumptions and reference materials supporting average CFL runtime of three hours per day. Finally, the vast majority of CFLs distributed by the Companies’ 2008 programs have most likely stayed in the same sockets for several years, so the average HOU for that population of CFLs may be unchanged even today. (Exhibit 53 at 4.)

Commission Discussion and Findings

120. The Parties recommend several different HOU’s for CFLs ranging from 1.9 to 3.0 HOU per day. The Commission finds that 1.9 HOU per CFL per day, based on large and recent studies from other states, is the most reliable.

121. The Companies’ reasoning to support increasing the HOU from 1.9 to 2.5 is based on a 2009 survey of 12 customers from one location in southern Nevada and 12 customers from one location in northern Nevada. The Commission cannot rely on the results of a 2009 survey of 12 customers in the south and 12 customers in the north identified to modify the HOU findings of several well-researched state and national studies. No attempt was made to demonstrate that participants in the surveys were representative of the participants purchasing CFLs in 2009. The Companies acknowledged that bias could be introduced by reliance on a small number of locations. (Tr. at 569). The Companies do not provide evidence that would lead the Commission to conclude that those surveyed are a representative sample of program participants.

122. The 1.9 HOU adopted in Pennsylvania was based on two studies, one national and one completed in California. The Commission finds that reliance on data from other jurisdictions is appropriate, particularly in this case, where the Commission does not believe it is reasonable to rely on the data thus far presented by the Companies with respect to HOU.
Further, the lower range of HOU is supported in part by the fact that the 6,000,000 CFLs distributed thus far appear to have been concentrated among approximately 70 percent of customers, suggesting a higher concentration and as a consequence fewer HOU according to the Companies. The Commission finds that the substantial and reliable evidence on the record supports an estimate of 1.9 HOU for purposes of estimating lost revenues for all years of this program. The 1.9 HOU shall be used to calculate all 2011 lost revenue related to 2009 Residential Lighting programs. For programs implemented in 2010 and thereafter, 1.9 HOU shall be used to calculate lost revenue until the Companies can substantiate an alternate measured and verified HOU.

123. The Commission accepts the Companies’ estimate of Delta Wattage. The Companies derive the Delta Wattage from the California Database for Energy Efficiency (“DEER”). The testimony indicates that DEER is a widely used and accepted tool to estimate Delta Wattage. The data compiled through DEER is the most reliable estimate available at this time.

124. 2011 lost revenue recovery related to the Residential Lighting programs must also be reduced pursuant to the reduction in program costs recognized in paragraphs 54 to 65 of this Order.

E. RESIDENTIAL HIGH EFFICIENCY AIR CONDITIONING

Staff’s Position

125. The data used by NPC to calculate kWh savings for the Residential High Efficiency Air Conditioning program contained approximately 637,000 kWh related to measures implemented prior to December 2007. However, based upon the multiple calculations in the load shape spreadsheet, Staff was unable to determine an appropriate adjustment. If the Commission
allows lost revenues to be recovered on measures implemented prior to the regulation effective date, Staff recommends that the Commission order NPC to make an adjustment to remove these projected kWh savings from the calculation. (Exhibit 48 at 5.)

**NPC's Rebuttal Position**

126. The Company agrees with Staff's recommendation to order NPC to remove kWh related to measures implemented prior to December 2007 in the residential high efficiency air conditioning program. (Exhibit 57 at 37). However the correct reduction amount would be 491,455 kWh, as not all of the kWh calculated by Staff impact 2011 sales. (Exhibit 57 at 38.)

**Commission Discussion and Findings**

127. Lost revenue recovery associated with programs implemented prior to NPC's Certification Date in Docket No. 08-12002 are not recoverable as provided by this Order in paragraphs 85 to 87. As a result, Staff's proposed adjustment is moot.

F. **REFRIGERATOR RECYCLING PROGRAM**

**BCP's Position**

128. BCP states that a significant number of second refrigerators that are recycled are not actually used for the entire year. BCP also believes that the Companies failed to properly factor age-related degradation into their lost revenue analysis. (Exhibit 23 at 6.) BCP also states there may be significant differences in Economic Useful Life ("EUL") for recycled refrigerators, but those differences will not affect the lost revenue calculations in this case. BCP recommends a five-year EUL for refrigerators. (Exhibit 23 at 6-7.)

**Companies' Rebuttal Position**

129. The Companies assert that the five-year EUL for recycled units is an appropriate suggestion. This would not impact first-year 2009 energy savings or annual energy savings
provided in ADM’s 2009 M&V reports, but would reduce lifetime savings. (Exhibit 53 at 9.)

130. BCP indicated that the degradation factor applied by ADM was 1.25%, and that
this is higher than normal, and is an incomplete characterization of the degradation methodology
applied in the 2009 evaluation. ADM's Effective Degradation Factor ("EDF") was actually
0.94% instead of 1.25%. (Exhibit 53 at 9-10.)

131. For each recycled refrigerator unit, ADM degraded the as-new rated annual kWh
by 1.25% per year of age, and further reduced its energy savings by an in-situ monitoring
adjustment factor that varied by weather zone. The in-situ adjustment factors were based on the
Factors of 8.5 percent and 15.4 percent were used for southern and northern Nevada,
respectively. The relatively lower in-situ adjustment factor for savings in NPC’s territory is due
to the warmer weather conditions. (Exhibit 53 at 10.) The Companies also assert that a minority
of units recycled through NV Energy's 2009 program were in partial use. (Exhibit 53 at 10.)

Commission Discussion and Findings

132. The Commission accepts the Companies’ degradation estimates. The
Commission finds the analysis submitted by the Companies to be more accurate than the
estimates proposed by BCP. Specifically, the Companies provide regional variations of
degradation between SPPC and NPC territories. The BCP’s suggested degradation factors lack
the same level of detail. The regional variations are material and will be incorporated into the
lost revenue analyses.

133. The Commission accepts BCP’s recommendation regarding recycled refrigerator
EUL. Both the Companies and BCP concur that five years constitutes a reasonable EUL.
G. LOW INCOME WEATHERIZATION

Companies' Position

134. In 2009 and 2010, ADM conducted the M&V of all implemented portfolio programs. ADM's M&V reports for the 2009 Low Income Weatherization program describe the implementation contractors' questionable reporting of the installed lighting components.

Specifically NPC's M&V report states:

We ultimately concluded that regression modeling was not going to be an effective solution for estimating savings impacts attributable to the Weatherization program, largely because of the data quality control problems we encountered. This involved both data quantity and data quality. The data problems encountered were largely with the lighting measures and included nonexistent and misclassified lighting fixtures, inflated lighting counts and inflated lighting duration values. Lighting fixtures turned out to be a phantom measure as no fixtures were installed. Our estimate of lighting effects would have been inflated because of all the duplicate CFL counts in the Data Store. The program did not install lighting fixtures. The two lighting fixtures models reported in the data store tracking base were in fact the following high efficiency lighting measures.

(Exhibit 6 at 70-72; Tr. at 541-542, 576, 624-625.) SPPC's Low Income Weatherization M&V report has language similar to that contained in NPC's concerning the lighting component of the Low Income Weatherization program. (Exhibit 11 at 30-32; Tr. at 770.)

135. In addition to non-existent, misclassified and duplicate CFL counts, the lighting calculations overstated the HOU for installed CFL lighting measures, similar to the manner previously addressed in paragraphs 120-122 of the Residential Lighting program adjustment section of this Order. ADM reported that the average daily run time for the CFLs in the low income program is in the range of 1.9 to 2.3, rather than the 3.0 hours reported for SPPC, and the 3.5 hours reported for NPC. (Exhibit 11 at 31; Exhibit 6 at 72.) This further skews the accuracy of the 2009 kWh savings. When ADM identified the data quality problems during their on-site visits and realized a regression analysis could not be run, they used the 11 on-site visits to
estimate the total savings for the 900 samples (low income houses) for NPC. (Tr. at 582.)

136. The impact of SPPC's Low Income Weatherization energy efficiency measures was examined through a billing analysis using regression modeling of the approximately 300 single family homes. (Exhibit 11 at 29.) The M&V approach involving regression analyses of customer billing data was not effective for the 2009 Low Income Weatherization programs. ADM found limitation in data quality and limitations in sample size limited the usefulness of the regression approach with the 2009 program data. (Exhibit 11 at 56.)

137. Data problems encountered for this program were largely related to lighting measures and included nonexistent and misclassified lighting fixtures, inflated lighting counts, and inflated lighting duration values. (Exhibit 4 at 70.) The Companies' witness did not know the magnitude of nonexistent or misclassified lights. The Companies were unable to answer whether contractors had been paid for the nonexistent bulbs. (Tr. at 672-674.)

Commission Discussion and Findings

138. As previously discussed in paragraphs 42 through 45 of this Order, ADM's M&V reports indicate significant problems related to reliability of the data used to measure and verify lost revenues related to the lighting component of the 2009 Low Income Weatherization programs of NPC and SPPC. The effect of the Low Income Weatherization program on lost revenue cannot be properly measured and verified due to the "nonexistent and misclassified lighting fixtures, inflated lighting counts and inflated lighting duration values" identified by ADM.

139. It appears the Companies have not followed up with their implementation contractors to ensure that accurate data is being recorded in the Data Store for all of the EE&C programs. Continued reporting errors limit the reliability of the data. It appears that
implementation contractors had very few, if any, checks and balances from the Companies during the installation process as these errors were only discovered long after the installations were completed, during the third party M&V process. Considering the necessity of obtaining measurable and verifiable savings in determining the lost sales eligible for cost recovery, addressing this is required for recovery. Artificial data can result in significant errors in the calculation of lost revenues.

140. The Commission finds the 2011 lost revenues related to the Low Income Weatherization program shall be excluded from the EEIR authorized in this proceeding. The Companies’ were unable to prove at hearing that identified problems were appropriately addressed. Therefore, the evidence provided fails to justify the reasonableness of the forecasted 2011 lost revenues.

141. Given that a balancing account has been established to recover lost revenues, the Companies may seek recovery of lost revenues related to the 2011 Low Income Weatherization programs in a future proceeding by providing additional evidence addressing the Commission’s concerns regarding implementation of the lighting component of their respective 2011 Low-Income Weatherization programs.

H. DEMAND CHARGES

Companies’ Position

NPC and SPPC request recovery of lost demand revenues by including the demand revenues in the calculation of a single per kWh BTGR for each customer class. The customer class specific BTGR should be calculated using a two step process, which was agreed upon during the October 26, 2009 informal rulemaking workshop in Docket No. 09-07016. (Exhibit 25 at 3; Exhibit 26 at 3.) Specifically, the lost revenue rate should be calculated by: (a) reducing each customer class
revenue requirement used to develop the rate design approved in the most recent GRC by the following types of revenues: Base Tariff Energy Rate, customer charge, and customer specific facilities charge; and (b) dividing the resulting revenue amount by the kWh sales used in that rate design. (Exhibit 3 at Vol. 3 Attachment E4; Exhibit 10 at Vol. 3 Attachment E4; Exhibit 25 at 3-4; Exhibit 26 at 3-4.)

Staff's Position

142. Staff recommends the Commission deny the Companies request to recover lost demand revenues, which is accomplished by excluding demand revenues from the BTGR calculation. (Exhibit 47 at 3, 23, 31.) While Staff does not oppose recovery of lost demand revenues, the Companies failed to provide measureable and verifiable evidence supporting the existence of lost demand revenues. (Exhibit 47 at 19, 23; Tr. 479-480.) Staff acknowledged that ADM did estimate demand savings using equivalent to energy (kWh to kW) conversion factors and the reports were included in the technical appendixes filed with the applications. (Tr. 488, 495-497.)

143. If the Commission allows recovery of lost demand revenues the Companies single BTGR methodology overstates lost revenues. (Exhibit 47 at 18, 23.) Additionally, for customer classes with time-of-use BTGR’s the single kilowatt-hour rate methodology ignores the need to develop a weighted average time-of-use BTGR. (Exhibit 47 at 17.) Using a two rate methodology in which energy and demand lost revenues are calculated separately properly estimates lost revenues:11

<table>
<thead>
<tr>
<th></th>
<th>Companies</th>
<th>Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>NPC</td>
<td>$4.5 million</td>
<td>$0.4 million</td>
</tr>
</tbody>
</table>

11 Staff’s initially only performed this analysis for NPC and it too demonstrated nearly a ten to one ratio. (Exhibit 51.)
144. Staff recommends denying the Companies’ single rate BTGR methodology for calculating lost revenues as it overstates the lost demand revenues and is inconsistent with the evidence in this proceeding. (April 20, 2011 Comments at 7.) Staff asserts the demand rate should be the appropriate time-of-use rate multiplied by the demand savings that occurred during that same time period. Since this information was unavailable, Staff recommends using a weighted average demand rate, which recognizes that demand savings occur throughout the year. (Exhibit 51; Exhibit 52; Tr. 482; April 20, 2011 Comments at 6-7.) In NPC’s case, the weighted average rate presumes more than 80% of demand savings occurs during the summer on-peak. (April 20, 2011 Comments at 6.)

145. Staff further asserts the Commission should limit the EE&C program demand savings to those programs associated with the customer classes that specifically incur demand charges. Further, Staff recommends calculating the demand savings using the equivalent energy conversion factors for all the EE&C plan years with measures included in the lost revenue calculation because EE&C program equivalent energy conversion factors change annually on a portfolio basis and potentially on a program level. (April 20, 2011 Comments at 4-6, Attachments 3 & 4.) Further, the equivalent energy conversion varies significantly across programs. (Exhibit 47 at YO-5; Tr. 481-482; April 20, 2011 Comments at Attachments 3 & 4.) The following table denotes Staff’s annual composite equivalent energy (kWh to kW) conversion factors reflecting only those programs associated with the customer classes that specifically incur demand charges and the conversion factor proposed by the utility.\(^\text{12}\)

\(^{12}\) NPC’s total portfolio annual equivalent energy conversion factors are: 4,044 kWh; 6,897 kWh; 5,291 kWh; 1,466 kWh; and a composite rate of 4,021 kWh. (April 20, 2011 comments at Attachments 3 p.1.) SPPC’s total portfolio
<table>
<thead>
<tr>
<th></th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>Composite</th>
<th>Utility</th>
</tr>
</thead>
<tbody>
<tr>
<td>NPC</td>
<td>2,913</td>
<td>7,177</td>
<td>3,488</td>
<td>1,885</td>
<td>4,020</td>
<td>1,447</td>
</tr>
<tr>
<td>SPPC</td>
<td>N/A</td>
<td>3,489</td>
<td>7,863</td>
<td>2,909</td>
<td>4,646</td>
<td>3,354</td>
</tr>
</tbody>
</table>

(Exhibit 61; Exhibit 63; April 20, 2011 Comments at Attachments 3 & 4.)

**Companies’ Rebuttal Position**

146. The Companies recommend the Commission reject Staff’s adjustment to deny recovery of lost demand revenue. Staff did not refute the existence of demand savings. (Exhibit 59 at 24; April 27, 2011 Comments at 1.)

147. The Companies further recommend lost revenues be calculated using their proposed single BTGR methodology as it provides a reasonable estimate and is simple to apply. (April 27, 2011 Comments at 1, 2.) The Companies assert either the single BTGR methodology or Staff’s two rate methodology properly applied produces a similar outcome.\(^\text{13}\) (Exhibit 59 at 21; Exhibit 61, Exhibit 63; Tr. 708; April 27, 2011 Comments at 1-2.) However, as applied by Staff, the two rate methodology significantly understates demand revenues. (Exhibit 61 at 2; April 27, 2011 Comments at 1, 4, Attachment 2.) The Companies contend the understatement is attributable to two input errors in Staff’s calculation, namely the equivalent energy conversion factor used to develop demand savings and the demand rate applied to the demand savings. (Exhibit 59 at Walsh Rebuttal-2; Exhibit 61; Exhibit 63; Tr. 707.)

148. The Companies concur with Staff’s assessment that equivalent energy conversion factors change with each EE&C plan year and will vary by program. (April 27, 2011 Comments at 2.) In this instance, the Companies assert 2011 calendar year equivalent energy conversion factors are: 4,517 kWh; 13,346 kWh; 4,789 kWh; with a composite rate of 8,561 kWh. (April 20, 2011 Comments at Attachments 3 p.1.)

\(^{13}\) Single rate method amount exceeded the two part methodology for both NPC and SPPC by 2% and 3%; respectively. (Exhibit 61; Exhibit 63; Tr. 708; Tr. 720-721; 740-741.)
factor is applicable because it is consistent with the savings used in this proceeding.\textsuperscript{14} (Exhibit 61; Exhibit 63; Tr. 704, 706-707, 716, 717-718; April 27, 2011 Comments at 2, 10.) Staff's equivalent energy conversion factor approach significantly understates demand savings. (Exhibit 61; Exhibit 63; April 27, 2011 Comments at 9-10.)

149. The Companies assert Staff's weighted average demand rate understates lost demand revenues as it is inconsistent with the available demand billing determinant information. The Companies argue consistency within the lost demand revenue calculation requires recognition of the demand rate denominator be limited to the demand billing determinant information available.\textsuperscript{15} Otherwise, the mismatching will distort the demand rate, which in this instance understates lost demand revenues. The Companies assert that only summer on-peak demand billing determinant information should be used as that information was used to determine the equivalent energy conversion factor ratio. (Exhibit 59 at 26; Tr. 731-732; April 27, 2011 Comments at 3, 5-9.)

150. The Companies further assert to ensure recovery of all lost demand revenues, including periods other than summer on-peak, the demand rate numerator must include all customer class demand revenues. Dividing the total class demand revenue by only the summer on-peak billing determinants produces a rate exceeding the Commission approved summer on-peak demand rate. The demand rate exceeding the Commission approved summer on-peak demand rate compensates the Companies for lost demand revenues occurring in other periods.\textsuperscript{16} (Exhibit 61; Exhibit 62; Exhibit 63; Tr. 717; 731-732, 739, 742, 753-754; April 27, 2011

\textsuperscript{14} Demand response programs, with a significantly lower equivalent energy conversion factor s (e.g., calendar year 2009 the ratio was 59 kWh versus portfolio average of 3,253 kWh), account for 52% of NPC's 2011 EE&C portfolio $77.5 million budget. (Exhibit 20 Attachment HSE-3 at 1; Exhibit 47 at Attachment YO-5.)

\textsuperscript{15} As with the other aspects of the applicable lost revenue rate calculated in this proceeding the demand billing determinants refer to those used to develop rates in the utility's last GRC. (Tr. 739, 742, 745.)

\textsuperscript{16} Due to the lack time-of-use detail, while it is possible the Companies two part lost revenue demand rate may overstate lost demand revenues, the lost energy revenue may be understated. (Tr. 753, 755.)
Comments at 5, 7-9.)

**Commission Discussion and Findings**

151. The Commission authorizes the Companies to collect lost demand revenues. Staff concurred with the Companies that the EE&C programs would produce demand savings in 2011.

152. The Commission finds that lost revenues are to be calculated using a two rate (demand and energy) methodology, which matches how larger commercial customers are billed. Staff raised two issues (level of demand savings and the applicable demand rate) that generated significant concern that the Companies’ proposed single BTGR methodology significantly overstates lost demand revenues.

153. The Commission accepts Staff’s recommendations concerning forecasting demand savings for lost demand revenue purposes. Limiting demand savings to those programs that are applicable to customer classes paying demand charges appropriately recognizes the rate structures for billing purposes and prevents an overstatement of lost revenues. The lost revenues associated with demand savings achieved by classes not paying demand and energy charges but a single commodity rate are included in the lost energy revenue rate. The Commission accepts Staff’s recommendation to estimate the forecasted 2011 EE&C demand savings using the equivalent energy conversion factors for the corresponding EE&C plan years with measures included in the lost revenue analysis, not simply the 2011 forecast. Staff’s recommendation improves the accuracy of calculated demand savings, as demonstrated by the table below, by recognizing the variability of annual EE&C plan portfolio equivalent energy conversion factors.

<table>
<thead>
<tr>
<th>Forecasted 2011 Demand (kW)</th>
<th>Savings</th>
<th>Companies</th>
<th>Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>NPC</td>
<td>230,406</td>
<td>82,938</td>
<td></td>
</tr>
<tr>
<td>SPPC</td>
<td>11,764</td>
<td>8,923</td>
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</table>
(April 20, 2011 Comments, Attachment 1 at 1, Attachment 2 at 1; April 27, 2011 Comments at Attachment 1 at 1, 5.)

154. The Commission also accepts Staff's recommendation to calculate the lost demand revenues using the weighted average demand rate. Staff's methodology recognizes that demand savings occur throughout the year as opposed to only the summer on-peak period.

155. Additionally, the Companies overstate the applicable demand rate by incorrectly presuming all demand savings occurred during the summer on-peak period. For example, LGS-2S summer on-peak demand rate is $13.79 per kW while the winter season rate is $0.35 per kW. (Exhibit 3 at 4). As indicated by the table below\(^{17}\), a significant percentage of the forecasted calendar year 2011 demand savings will not occur during the summer season:

<table>
<thead>
<tr>
<th>Season</th>
<th>NPC</th>
<th>SPPC</th>
</tr>
</thead>
<tbody>
<tr>
<td>June</td>
<td>9.4%</td>
<td>N/A</td>
</tr>
<tr>
<td>July</td>
<td>10.3%</td>
<td>9.9%</td>
</tr>
<tr>
<td>August</td>
<td>10.4%</td>
<td>10.0%</td>
</tr>
<tr>
<td>September</td>
<td>9.8%</td>
<td>9.8%</td>
</tr>
<tr>
<td>Summer</td>
<td>39.9%</td>
<td>29.7%</td>
</tr>
<tr>
<td>Other</td>
<td>60.1%</td>
<td>70.3%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
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### VII. COST ALLOCATION ISSUES

#### A. VARIABLE OPERATIONS AND MAINTENANCE ("VOM") COSTS

BCP's Position

156. BCP recommends reducing lost revenue recovery by VOM costs. (Exhibit 23 at 4, 4.)

\(^{17}\) The table was calculated using the kWh savings obtained from Exhibit 3 work papers DMS-3 through DSM-18 and Exhibit 10 work papers DSM-3 through DSM-17. The equivalent energy conversion factors used were the multiple year methodology proposed by Staff. (April 20, 2011 Comments, Attachments 3 & 4.)
7; Tr. 206.) BCP asserts lost revenue compensation is intended to allow recovery of fixed costs between rate cases. (Exhibit 23 at 3.) As identified in the marginal cost of service study, a certain level of VOM costs exist outside the deferred energy process. (Exhibit 23 at 3.) EE&C induced sales reductions allow the Companies to avoid these VOM costs. (Exhibit 23 at 7; Tr. 206.)

157. BCP calculates avoided VOM costs equal to $0.00204 and $0.00158\(^{18}\) per kWh for NPC and SPPC, respectively. (Exhibit 23 at 3-4, 7.) BCP argues, because the avoided cost is on the margin, using the marginal cost of service study determined VOM per kWh is superior to the embedded revenue requirement VOM costs. (Tr. 206-207.) Under the portfolio standard, only 85% of the energy is potentially available from fossil fueled generation. Therefore, BCP calculated the adjustment by discounting only 85% of VOM. (Exhibit 23 at 3.)

**Kroger’s Position**

158. Kroger concurs with BCP that lost revenue compensation should be net of variable costs that have been avoided by the utility. (Tr. 418.)

**Staff’s Position**

159. Staff believes lost revenue may be reduced by VOM costs, if the costs are variable and avoidable. (Tr. 506.)

**Companies’ Rebuttal Position**

160. The Companies’ recommend BCP’s VOM adjustment be denied. (Exhibit 59 at 11.) The Companies contend their lost revenue calculation methodology was agreed upon in the rulemaking proceeding in Docket No. 09-07016. (Exhibit 59 at 9-12.) The Companies argue that marginal costs only provide a guide as to how to allocate revenue requirement between

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\(^{18}\) BCP states the amount to be $0.001577 per kWh. The per kWh rate is limited to five decimal places, therefore the rate was rounded to $0.00158 per kWh.
customer classes. (Exhibit 59 at 14-15.) No direct means exist to “map” VOM costs reflected in the marginal cost of service study to the VOM included in revenue requirements. (Exhibit 59 at 15.)

161. If accepted by the Commission, BCP’s VOM adjustment is overstated. The marginal cost amount exceeds the amount included in revenue requirements. (Exhibit 59 at 11.) Presuming a direct “mapping”, the VOM costs must be adjusted to reflect the marginal cost based revenue requirement to embedded revenue requirement reconciliation process. Additionally, SPPC’s revenue requirement reconciled amount should be adjusted to reflect the Commission’s decision in its last GRC (Docket No. 10-06001) to reduce marginal generation costs by 50%. (Exhibit 59 at 15-16.) After these adjustments, the resulting reductions in SPPC and NPC’s respective EEIRs would be $0.00129 and $0.00077.¹⁹ (Exhibit 59 at 16-17.)

Commission Discussion and Findings

162. The Commission finds that lost revenues should be net of VOM costs, as these costs represent expenses avoided by the Companies. The Commission agrees with BCP that a reduction in energy sales reduces VOM expenses. The Commission finds that the Companies’ per kWh VOM rate should be utilized in the calculation. The Companies’ methodology allows for consistency in the measurement of lost revenues as both the lost revenues and avoided variable costs are measured using the embedded revenue requirement.

B. CUSTOMER CLASS COST ALLOCATION METHOD

Companies’ Position

163. The Companies request authority to allocate EE&C program costs and associated lost revenue between customer classes using the combined marginal cost of service study

¹⁹ NPC states the amount to be $0.771 per megawatt-hour which equals $0.000771 per kWh. Since the per kWh rate limited to five decimal places, the rate was rounded to $0.00077 per kWh.
generation and energy allocator, which underlies the rates approved in their respective last GRCs. (Exhibit 12 at 5; Exhibit 13 at 6; Exhibit 25 at 5, 7; Exhibit 26 at 5, 7.) SPPC states that due to customer participation limitations (e.g., interruptible agricultural irrigation, GS-4 NG) a revenue deficiency was created which was then reallocated to other customer classes using the same methodology applied in its recent GRC to address similar issues. (Exhibit 26 at 5-6.)

164. The Companies assert that the acceptance of the combined marginal generation and energy allocator in their respective recent GRCs to allocate EE&C program costs justifies the use of the combined generation and energy allocation methodology for these proceedings. The Companies argue EE&C programs not only benefit participating customer classes but the overall system by avoiding generation and energy costs. The combined marginal generation and energy allocation reflects costs avoided. Additionally, the Companies contend this methodology was agreed to by the participants in the rulemaking proceeding in Docket No. 09-07016. (Exhibit 12 at 5; Exhibit 13 at 6; Exhibit 25 at 7-8; Exhibit 26 at 7-8; Tr. at 250.)

165. The Companies did not test the reasonableness of the marginal generation and energy allocation. (Tr. 250-251.) However, the Companies argue a direct relationship between the marginal generation and energy allocator and EE&C program benefits need not exist. While short-term benefits of kWh savings will occur as a result of EE&C programs, the long-term benefit of avoided generation capacity may not occur for a period of time. (Tr. at 251-252.)

166. NPC states that its 2011 portfolio of EE&C programs is comprised of a mixture of programs with most programs tending to be less summer seasonal or peaking than the residential high efficiency air conditioning program. The portfolio's lighting components mitigate air

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20 NPC's Docket No. 08-12002 compliance filing dated August 14, 2009 denotes marginal generation costs accounts for 46.6% (or $923,168) of the combined marginal generation and energy costs of $1,981,852. SPPC's Docket No. 10-06001 compliance filing dated December 30, 2010 denotes marginal generation costs accounts for 24.3% (or $139,866) of the combined marginal generation and energy costs of $575,252.
conditioning summer peaking impacts. (Exhibit 3 at 61; Exhibit 18 at 11-13; Tr. 221-225.) For example, single-family CFL installation benefit distribution is relatively flat with a greater proportion of savings occurring in the fall through winter. (Exhibit 18 at 13.) NPC’s total forecasted kWh savings by month\(^{21}\) is set forth in the table below:

<table>
<thead>
<tr>
<th>Month</th>
<th>kWh</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>53,783,222</td>
<td>7.0%</td>
</tr>
<tr>
<td>February</td>
<td>49,341,663</td>
<td>6.4%</td>
</tr>
<tr>
<td>March</td>
<td>53,193,226</td>
<td>6.9%</td>
</tr>
<tr>
<td>April</td>
<td>51,544,583</td>
<td>6.7%</td>
</tr>
<tr>
<td>May</td>
<td>58,498,356</td>
<td>7.6%</td>
</tr>
<tr>
<td>June</td>
<td>70,495,297</td>
<td>9.1%</td>
</tr>
<tr>
<td>July</td>
<td>79,207,545</td>
<td>10.2%</td>
</tr>
<tr>
<td>August</td>
<td>79,157,830</td>
<td>10.2%</td>
</tr>
<tr>
<td>September</td>
<td>72,719,794</td>
<td>9.4%</td>
</tr>
<tr>
<td>October</td>
<td>71,125,713</td>
<td>9.2%</td>
</tr>
<tr>
<td>November</td>
<td>65,128,169</td>
<td>8.4%</td>
</tr>
<tr>
<td>December</td>
<td>69,606,830</td>
<td>9.0%</td>
</tr>
<tr>
<td>Total</td>
<td>773,802,227</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Exhibit 3 at 44-60; Tr. 225-226.)

167. SPPC disclosed that the residential Energy Star Lighting program accounted for approximately 60% of its forecasted calendar year kWh savings.\(^{22}\) (Exhibit 10 at 25, 28.) As indicated by installation of CFLs in single-family residences, lighting program monthly benefit distribution is relatively flat with a greater proportion of savings occurring in the fall through winter. (Exhibit 19 at 12.) SPPC’s total forecasted kWh savings by month\(^{23}\) are set forth in the table below:

\(^{21}\) Additional detail regarding forecasted calendar year 2011 kWh savings by EE&C vintage are located in Exhibit 3 at workpapers DSM-2 through DSM-18.

\(^{22}\) 80,835,868 kWh divided by 135,220,830 kWh. (Exhibit 10 at 25-36.)

\(^{23}\) Additional detail regarding as forecasted calendar year 2011 kWh savings by EE&C program year placed into service is found at Exhibit 10 at workpapers DSM-2 through DSM-13.
### SPPC Forecasted 2011 Savings

<table>
<thead>
<tr>
<th>Month</th>
<th>kWh</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>8,948,818</td>
<td>6.6%</td>
</tr>
<tr>
<td>February</td>
<td>8,482,644</td>
<td>6.3%</td>
</tr>
<tr>
<td>March</td>
<td>9,327,008</td>
<td>6.9%</td>
</tr>
<tr>
<td>April</td>
<td>8,547,000</td>
<td>6.3%</td>
</tr>
<tr>
<td>May</td>
<td>9,862,595</td>
<td>7.3%</td>
</tr>
<tr>
<td>June</td>
<td>10,032,324</td>
<td>7.4%</td>
</tr>
<tr>
<td>July</td>
<td>11,057,163</td>
<td>8.2%</td>
</tr>
<tr>
<td>August</td>
<td>11,411,211</td>
<td>8.4%</td>
</tr>
<tr>
<td>September</td>
<td>11,887,535</td>
<td>8.8%</td>
</tr>
<tr>
<td>October</td>
<td>14,881,372</td>
<td>11.0%</td>
</tr>
<tr>
<td>November</td>
<td>14,990,773</td>
<td>11.1%</td>
</tr>
<tr>
<td>December</td>
<td>15,792,387</td>
<td>11.7%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>135,220,830</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

(Exhibit 10 at 25-36.)

**Staff’s Position**

168. Staff recommends the Commission accept the Companies’ proposed allocation methodology at this time. The combined generation and energy allocator is the best allocator available at this time. (Exhibit 47 at 3, 31; Tr. at 510.) However, to address potential interclass subsidy associated with this methodology, Staff further recommends the Commission order the Companies to attempt to develop a better allocation methodology (or methodologies) and report back to the Commission in SPPC’s 2013 GRC. (Exhibit 47 at 3, 31.)

169. Staff asserts customer class allocation of EE&C costs should be premised upon either cost causation or benefit allocation. The Companies have identified the cost causer and beneficiaries of each program. Staff contends that while the Companies assert the combined generation and energy allocator recognizes the indirect benefits achieved by a customer class, the
Companies fail to demonstrate that it adequately allocates EE&C costs.\textsuperscript{24} Staff estimates that NPC’s allocation methodology creates an approximate $6 million interclass subsidy. Staff has not compared the marginal generation and energy load curve to the EE&C programs benefit curve for reasonableness. (Exhibit 47 at 25-27; Tr. at 505.)

170. Staff explains that its 2013 reporting requirement will allow the Companies to develop more stable allocator(s) premised upon the analysis of observed customer class savings. Staff asserts implementation difficulties prevent it from recommending the adoption of an alternate allocation methodology using estimated customer class benefits. Specifically, the annual variability of forecasted class benefits produces both administrative inefficiencies and reduced predictability. An analysis of observed EE&C program savings would aid in addressing these issues. (Exhibit 47 at 27-28.)

**Companies’ Rebuttal Position**

171. The Companies recommend the Commission reject Staff’s recommended 2013 compliance filing. (Exhibit 59 at 27-28.) All parties, not only the Companies, have the ability to present alternative allocation methodologies they perceive as superior in subsequent GRCs. (Exhibit 59 at 28.)

172. The Companies contend Staff’s criticisms ignore the distinction between direct benefits accruing to the participating customers and the indirect benefits of avoided or delayed generation and energy shared by all. (Exhibit 29.) The Companies reiterate their assertion that the combined marginal generation and energy allocator is a fair methodology to spread the EE&C benefits of avoided or delayed generation and energy savings between customer classes. As the allocator used to spread the underlying cost that would have occurred but for EE&C

\textsuperscript{24} NPC estimated the residential customer classes’ account for 75% of the kWh savings but were only allocated 49% of the lost revenues. SPPC estimated customer classes’ account for 53% of the kWh savings but were only allocated 32% of the lost revenues. (Exhibit 47 at 26.)
programs. (Exhibit 59 at 28; Tr. 756-757.) NPC noted that it is a summer peaking utility.\(^2\)
(Exhibit 61; Tr. 752-753.) SPPC noted that it is summer peaking but has a relatively high winter
demand as well.\(^3\) (Tr. 757.)

**Commission Discussion and Findings**

173. The Commission approves the Companies' recommendation to allocate EE&C
costs between customer classes in this proceeding using the combined marginal generation and
energy allocator. No party opposed adoption of this methodology in this proceeding nor
proffered an alternative allocation methodology. The decision to apply this methodology was
discussed at the workshops where the Implementing Regulations was developed. This method
was accepted by the Commission as the means to allocate DSM costs in NPC's and SPPC's most
recent general rate proceedings. The Commission finds that given this record this method is
appropriate for purposes of allocating costs in this proceeding.

174. The underlying assumption of this approach is that the combined marginal
generation and energy allocator is representative of the EE&C program system benefits of
avoided generation and energy costs. However, no party tested the reasonableness of the
assumption that the combined marginal generation and energy allocator is representative of the
EE&C program system benefits of avoided generation and energy costs. For example, the
Companies stated the avoided generation capacity may not occur for a period of time yet
marginal generation costs represent a significant component of the combined marginal
generation and energy allocator (46.6% for NPC and 24.3% for SPPC).

175. It may be appropriate to revisit this question in light of growing EE&C program
costs and lost revenue. The Commission directs the Companies and Staff to examine the

\(^2\) Exhibit 44 at attachment ML-3 denotes summer peaking demand only.
\(^3\) Exhibit 44 at attachment ML-2 denotes both summer and winter peaking demand.
adequacy of allocating EE&C program costs using the combined marginal generation and energy allocation methodology in the cost recovery application to be filed in March 2012.

VIII. MISCELLANEOUS ISSUES

A. SELF DIRECT ENERGY EFFICIENCY PROGRAM

Kroger’s Position

176. Kroger asserts that a self direct energy efficiency program would allow qualifying customers who commit to independently meeting the program’s energy efficiency targets to be exempt from funding future EEPRs and EEIRs. (Exhibit 41 at 12.) Commercial and industrial customers have an independent economic incentive to invest in cost-effective energy efficiency activities. (Exhibit 41 at 13.) To participate in current EE&C programs offered by the Companies, a customer’s efficiency investments must fit within program parameters designed by the Companies that may not align with the customer’s efficiency priorities. (Exhibit 41 at 14.) For customers such as Kroger who pursue energy efficiency measures without regard to third party incentives, the Companies’ program model wastes time and investment resources on the administrative expenses and lost revenue recovery costs required for the Companies’ involvement. (Exhibit 41 at 16.) Pro-active customers committed to acting on their own initiative to save energy are making contributions to the broader societal objective of increasing energy efficiency without subsidization from other customers. (Exhibit 41 at 15.) Furthermore, under the self-direct option, non-self-direct customers would benefit from the self direct customer’s actions, just as one customer class benefits from another customer class participating in a particular utility sponsored EE&C program. (Tr. at 412).

177. Pursuant to Kroger’s proposed self-direct plan, a self-direct participant would be required to demonstrate that they have improved their energy efficiency by the maximum energy
efficiency targets allowed in the Companies’ annual RPS compliance. In 2012 the Nevada RPS requires that not less than 15 percent of the Companies’ electric energy sales come from qualifying renewable sources, of which 25 percent, equating to 3.75 percent, can come from EE&C actions. In 2013 the overall requirement is raised to 18 percent, increasing the EE&C requirement to 4.5 percent. A potential self direct customer would be required to demonstrate improvement in its energy efficiency by 3.75 percent since 2004 using its own funds, and commit to increasing its energy efficiency to 4.5 percent in 2013. (Exhibit 41 at 17.) Resulting kWh savings would be utilized by the Companies’ to meet their RPS requirements, but would not accrue lost revenues as the Companies’ funds would have not been expended in the implementation of these measures. (Exhibit 41 at 18.)

178. In meeting the energy efficiency target a self-direct participant can aggregate measurement of its efficiency activities over multiple sites in order to deploy resources where they will have the greatest impact. (Exhibit 41 at 13.) Energy reductions should be adjusted for growth to ensure that efficiency gains, not reductions in operations, are the cause of the reductions. (Exhibit 41 at 20.) The self-direct program in Michigan, upon which this proposal is based, provides for biannual documentation of customer progress in meeting the energy efficiency target. If a self-direct participant fails to meet its target, it must repay avoided EE&C surcharges associated with the shortfall and penalties, if applicable. Penalties would be imposed through a hearing before the Commission. (Exhibit 41 at 19).

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27 NRS 704.7821(1)(d); NRS 704.7821(2)(b).
28 NRS 704.7821(1)(e);
29 These RPS percentages were established in 2005. Therefore, Kroger argues that it is reasonable to extend back to 2004 for measuring energy efficiency improvements. (Exhibit 41 at 17.)
30 The Arkansas Public Service Commission has also used the Michigan program as a model for drafting proposed amendments to its Conservation and Energy Efficiency Rules. (Exhibit 41 at 20.)
Companies' Position

179. The Companies recommend the Commission deny the request for approval of a self-direct program for several reasons. However, should the Commission decide to consider a self-direct option, it should develop that option through a rulemaking proceeding, and not this contested case. (Exhibit 57 at 15.) An investigation should be conducted to establish the detailed provisions, particularly M&V, through proper vetting with all interested parties. (Exhibit 57 at 18.) If the PECs produced from the self-direct measures are to be claimed by the Companies for RPS compliance, the M&V requirements should be as rigorous as the Companies' EE&C programs. (Exhibit 57 at 17.)

180. Additionally, a self-direct program would be a burden on the Companies and the Commission. The Companies would be required to evaluate the self direct plans and M&V reports and incorporate these plans into their resource planning process. A system for administration cost recovery and contributions to low-income programs would have to be created. The Commission would be responsible for approving the recovery of administration costs and low income contributions, assessing the validity of the M&V reports, and for holding hearings to address any savings shortfalls. (Exhibit 57 at 16.) Furthermore self directed customers would benefit from, but not pay for, the utility-sponsored EE&C programs as those programs reduce required investments in generation, transmission and distribution. (Exhibit 57 at 16.) Every customer should pay a fair and equitable part of the costs through the EEPR and EEIR. (Exhibit 59 at 2.) Additionally, a self direct program would create rate impacts on all non-self direct customers. Customers in classes with high self-direct participation would receive a high rate increase, as the non-participating customers in the eligible classes would carry the costs of the class allocated EEPR and EEIRs. (Exhibit 59 at 7.)
Commission Discussion and Findings

181. The Commission finds that this proceeding is not the appropriate forum to introduce a self-direct EE&C program. Given the mandate of NRS 704.785 such a request would likely require legislation. There are no provisions in the statute that would allow the Commission to exempt a customer from paying the costs associated with Commission-approved EE&C programs, nor is any mechanism contemplated that would allow any customer to offer EE&C upgrades in lieu of paying the required costs for such programs. Therefore, the Commission denies the requested self-directed program.

B. EEPR AND EEIR LINE-ITEM ON BILL

Companies' Position

182. The Companies originally requested rates from the instant case be effective on April 1, 2011. Due to various factors the implementation will take place in either June or July. The Companies state they have not finalized plans for placing the EEIR and EEPR on customer bills. The Companies plan to provide educational information through a bill stuffer that will explain the rate change. (Tr. at 59-60.)

183. The Companies indicate an ability to present the EEPR and EEIR rates on customer bills either as a component of the BTGR or as a separate line item. (Tr. at 795.) The Companies believe that listing the EEPR and EEIR as a separate line-item would require some initial costs, but would require few continuing costs. (Tr. at 796.)

184. The Companies are willing and able to identify energy efficiency charges separately on customer bills, while the Companies request the Commission specify how EEPR and EEIR charges should be presented on customer bills. If the Commission determines that the EEPR and EEIR should be identified in a single separate line item or in two separate line items on customer
bills, the Companies request the Commission authorize such billing begin on July 1, 2011 (instead of June 1, 2011). Beginning billing on July 1, 2011, will allow the Companies sufficient time to write and test billing codes and develop the material necessary to educate customers about the new charges. The Companies also request to continue using existing bill-stock until exhausted. Doing so would avoid wasting existing bill-stock. (Companies’ Summary Brief at 2-3.)

**Commission Discussion and Findings**

185. The Commission prefers transparency in billing and finds that it is in the public interest to combine the EEPR and EEIR and place it as a separate line-item on customer bills. The magnitude of increase under consideration coupled with the important energy efficiency public policy objectives identified by the Legislature support placing the combined EEPR and EEIR as one separate line item on customer bills. The Companies are directed to commence billing on July 1, 2011 and may continue to use existing bill-stock until exhausted.

C. **EXAMINATION OF LOST REVENUES WHEN CONSIDERING FUTURE EE&C PROGRAMS**

**Companies’ Position**

186. In Docket No. 10-02009, NPC proffered Exhibit 111 in order in order to assist the Commission in selecting between four alternative DSM proposals for NPC’s Action Plan period. When Exhibit 111 was presented, NPC stated that the impacts on energy savings from measures installed in prior program years were not included in the analysis, as those savings were not essential to the selection of the DSM scenario to be implemented during the Action Plan Period. (Exhibit 20 at 3.)

**BCP’s Position**

187. NRS 704.785 instructs the Commission to consider the impact that lost sales compensation will have on consumer rates. For many programs, lost revenue compensation
significantly increases overall program costs. For example, first-year lost sales costs for the Residential Lighting Program increase overall costs by 38% to 52%. When full-year lost sales costs are considered, they will increase overall costs by about 96% to 145%. The benefit-cost ratio for this program varied from 2.5 to 3.17 at Commission approval. These ratios suggest that at approval, the Commission expected benefits to exceed costs by a significant margin. If the Companies’ lost revenue requests are approved, after only two years, the overall costs of the Residential Lighting Program will increase dramatically, and reduce or eliminate net benefits to customers. If lost revenue compensation causes overall costs to increase by as much as 145% each year, in time net benefits could be eliminated. (Exhibit 32 at 22.)

Companies’ Rebuttal Position

188. The Companies’ IRP filings provide adequate information to assess the cost effectiveness of EE&C programs. In addition to the total resource cost ("TRC") test, the primary test for evaluating EE&C programs, the Companies provide the results of the Ratepayer Impact ("RIM") test, the Utility Cost Test, the Participant Cost Test, and the Societal Cost Test. These tests all follow the generally accepted methodologies of the California Standard Practice Manual and are consistent with industry practices. These four secondary tests highlight specific aspects of cost effectiveness, such as the effect EE&C programs and lost revenue recovery will have on rates. However, lost revenue compensation is included only in the RIM test. (Exhibit 58 at 3.)

189. BCP’s example using the Residential Lighting program distorts the relationship between TRC net benefits and lost revenues. BCP’s analysis looks at 2011 in isolation by selecting the third year in the rate case cycle, the year with the most significant lost sales revenue requirement. The 2011 lost sales revenue requirement includes energy savings generated by measures installed in 2008, 2009, 2010 and 2011. After January 1, 2012, when rates in NPC’s
2011 GRC go into effect, the contributions of measures installed in 2008 and 2009 will be eliminated and the contribution of measures installed in 2010 and 2011 will be significantly reduced. (Exhibit 58 at 11.)

**Commission Discussion and Findings**

190. The Commission is statutorily required to consider the effect of the utility’s lost revenue recovery on customer rates. The Commission must consider this factor alongside program cost effectiveness and RPS compliance when approving EE&C measures.

191. The Commission is concerned that the presentations provided in the last approved IRP do not now fully reflect rate impacts of proposed EE&C programs.

192. Lost revenue is a category of costs that is now recognized for recovery. This category of cost is incurred at the time an energy efficiency or conservation measure is implemented. Prior to the enactment of NRS 704.785 and the Implementing Regulations, these costs were borne by the utility prior to the resetting of billing determinants in a GRC. After the GRC the costs were borne by the ratepayers. Resetting the billing determinants accounted for EE&C measures implemented as a result of utility programs or by the customer’s own action.

193. The Commission has relied primarily on the TRC test to determine cost-effectiveness of EE&C programs. A well-recognized short-coming of the TRC test is that it does not provide a reliable metric to assess the distributional impacts of EE&C programs in general and lost revenues in particular. The RIM also has certain limitations as well in this respect. Regardless, the Commission seeks to include a more rigorous analysis of the impact of lost revenues on customer bills.

194. Based on the foregoing, the Companies shall provide a calculation of expected lost revenues that will be generated from the entire 2012 EE&C program portfolio, broken down

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31 NRS 704.785(1)
by individual programs, on or before in their next respective Annual DSM Update. The
Companies shall also provide analyses considering the long-term and cumulative effect of
lost revenue recovery in the cost calculus in their next respective Integrated Resource Plan and
Annual Demand Side Management Update.

D. INDEPENDENCE OF M&V CONTRACTOR

Staff's Position

195. M&V energy savings translate into the lost revenue the Companies may recover.
(Exhibit 47 at 8.) As such, the independence of the M&V contractor verifying the energy
savings is crucial. (Exhibit 47 at 29.) However, the Companies pay the M&V contractor and
this contractual arrangement gives rise to the appearance of a conflict of interest. Noting this
problem, Staff plans on strengthening its review and audit of the claimed energy savings when
such savings are asked to be verified. (Exhibit 47 at 30.)

Companies' Rebuttal

196. The Companies employ transparent contract award processes and contract
administration practices to ensure that the M&V contractor remains independent and impartial.
(Exhibit 57 at 24.) Additionally, while the Companies retain options to release an M&V
contractor based on the delivery of timely and complete M&V plans and reports, the Companies
may not discharge a contractor based upon the results of their independent analysis of the EE&C
programs. (Exhibit 57 at 24.) If the Companies were to add a third party administrator, the
M&V contractor would still be required to work with the Companies and their chosen program
implementation contractors on an ongoing basis. Furthermore, the M&V provides the program
managers real-time indicators of how EE&C measures perform, enabling the Companies to make
program adjustments quickly and accurately. This benefit would be lost with the addition of a
third party administrator. (Exhibit 57 at 24.)

**Commission Discussion and Findings**

197. The Commission shares Staff’s concern that the independence of the M&V contractor verifying the energy savings is crucial.

198. The Companies in rebuttal assert that the M&V evaluator contracted by the Companies completes its analysis of the EE&C programs as a neutral third party in an open, transparent and reviewable process.

199. The Commission commends the M&V contractor for highlighting problems it encountered in measuring and verifying the Low Income Weatherization programs and recognizes the necessity of maintaining the continuing candor of the M&V contractor.

200. The Commission believes that the long-term viability of EE&C programs relies on public perception, legislative support and the Companies’ transparency that these programs perform as planned and provide value to the ratepayers and the public. Therefore, the Commission directs the Companies and Staff and requests BCP to assess the current M&V process and recommend changes if necessary in each Companies’ next annual DSM Update.

**E. RE-VERIFICATION OF 2008 AND 2009 M&V REPORTS**

**Staff’s Position**

201. Staff states that there are at least three reasons for verification of those energy savings which are claimed to be the result of EE&C programs implemented in 2008 and 2009. First, the purpose of such filings has been widened pursuant to NAC Chapter 704, as amended by the Implementing Regulations. Accordingly, the scope of Staff’s investigation has changed, requiring a much more rigorous review and audit of claimed energy savings. Second, some of the inputs used for the verification may be outdated as the verification was conducted more than
one year ago. Third, as verified energy savings determine the amount of monies the Companies receive from ratepayers under the new regulation, a greater precision of estimation is crucial. (Exhibit 47 at 6.)

Companies’ Rebuttal Position

202. The Companies recommend that the Commission reject Staff’s proposal to re-verify the 2008 and 2009 M&V work for the purpose of checking to see if there have been changes since 2008 and 2009 due to changed conditions. The Companies do not recommend re-verification because the M&V work was accomplished in accordance with industry standards and met the precision and confidence levels that were in place at the time. The cost for the re-verification to achieve a 90 percent confidence interval would be in the range of $300,000-$400,000 for 2009 and potentially higher for 2008 because the initial M&V work was completed by a now defunct consultant. The re-verification work could be completed in time to be incorporated in the March 1, 2012 lost revenue filing. (Exhibit 57 at 29.)

Commission Discussion and Findings

203. The Commission finds that re-verification is not appropriate under the present circumstances due to the nature of the M&V process. Many of the calculations involve site specific inspections and Data Store inputs completed at the time of program participation. The Commission is not assured that the time and cost required to gather the data from 2008 and 2009 customers to increase the M&V accuracy will alter the lost sales requested to such a point that the EEIR and EEPRs will be noticeably different from those in this instant filing.

THEREFORE, it is ORDERED that:

1. The Application of Nevada Power Company d/b/a NV Energy, designated as Docket 10-10024, is APPROVED as modified by this Order.

2. The Application of Sierra Pacific Power Company d/b/a NV Energy, designated
as Docket 10-10025, is APPROVED as modified by this Order.

3. Regulatory Operation Staff's Motion for Partial Summary Judgment is GRANTED in part and DENIED in part as identified herein.

Compliances

4. Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy shall calculate their respective base energy efficiency program rates in accordance with paragraphs 13 to 67 of this Order.

5. Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy shall calculate their respective based energy efficiency implementation rates in accordance with paragraphs 68 to 162 of this Order.

6. Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy shall file updated tariffs in compliance with this Order within ten business days of the effective date of this Order.

Directives

7. Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy are directed to file an updated impact assessment in their next respective Annual Demand Side Management Update for all residential energy efficiency and conservation programs with a lighting component including any proposed changes to a program’s budget and expected kilowatt hour savings by using the most up-to-date information available. The Companies are also directed to provide an analysis of potential state mandated lighting scenarios that the Companies believe are most likely to be adopted by the Director of the Nevada State Office of Energy. The Commission also expects the information to be presented in a manner that builds on the work the Companies have completed to date.

8. Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company
d/b/a NV Energy shall include proposed budgets for 2012 energy efficiency and conservation programs that include base, high and low DSM scenarios in their next respective Annual Demand Side Management Update.

9. Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy shall and the Regulatory Operations Staff of the Commission shall examine the adequacy of allocating energy efficiency and conservation program costs using the combined marginal generation and energy allocation methodology in their respective 2012 filings for energy efficiency and conservation related cost recovery pursuant to Nevada Revised Statutes 704.785.

10. Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy shall provide a calculation of expected lost revenues that will be generated from the entire 2012 portfolio, broken down by individual programs on or before in their next respective Annual Demand Side Management Update.

11. Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy shall provide analyses considering the long-term and cumulative effect of lost revenue recovery in the cost calculus in their next respective Integrated Resource Plan and Annual Demand Side Management Update.

12. Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy and the Regulatory Operation Staff of the Commission shall provide an assessment of current measurement and verification process and recommend changes if necessary in their next respective Annual Demand Side Management Update regarding the need for an independent measurement and verification process.
13. The Commission may correct errors that may have occurred in the drafting or issuance of this Order.

By the Commission,

[Signature]
ALAINA BURTENSHAW, Chairman and Presiding Officer

[Signature]
REBECCA D. WAGNER, Commissioner

[Signature]
LUIS F. VALERA, Commissioner

Attest: [Signature]
BREANNE POTTER
Assistant Commission Secretary

Dated: Carson City, Nevada

[Date]

(SEAL)