BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF SOUTHWESTERN PUBLIC SERVICE COMPANY’S APPLICATION FOR APPROVAL OF ITS 2010/11 ENERGY EFFICIENCY AND LOAD MANAGEMENT PLAN AND ASSOCIATED PROGRAMS, REQUESTED VARIANCES, AND COST RECOVERY TARIFF RIDER Case No. 09-00352-UT

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CAROLYN R. GLICK, HEARING EXAMINER FOR THE NEW MEXICO PUBLIC REGULATION COMMISSION ("COMMISSION"), SUBMITS THIS CERTIFICATION OF STIPULATION TO THE COMMISSION PURSUANT TO 1.2.2.20 NMAC. THE HEARING EXAMINER RECOMMENDS THAT THE COMMISSION ADOPT THE FOLLOWING STATEMENT OF THE CASE, BACKGROUND, DISCUSSION, FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECRETAL PARAGRAPHS IN ITS FINAL ORDER.

II. STATEMENT OF THE CASE

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

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

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

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

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

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

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

Uncontested Stipulation, § 2.3.

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

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

Certification of Stipulation, ¶ E.

The Commission required SPS to file, within twenty days of issuance of the Final Order, an updated Energy Efficiency Rider to adjust the tariff rider values for (i) any Commission-ordered changes to the 2010
Plan; and (ii) any under- or over-recovery resulting from 2009 costs and revenues known at that time (along with any associated carrying charges incurred by under- or over-recovery). *Id.*, ¶ G.

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

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

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

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

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

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

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

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


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

On November 3, 2010, the Hearing Examiner issued an Order scheduling a November 9, 2010 pre-hearing conference.
On November 8, 2010, the Hearing Examiner issued an Order rescheduling the pre-hearing conference to November 15, 2010.

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

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

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

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

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

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

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

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

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

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

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

Following the presentation of evidence, the Hearing Examiner ordered CCAE to file by February 9, 2011, an affidavit of Howard Geller attesting to the truth and accuracy of his testimony. She also ordered SPS to file, by February 9, 2011, (i) Total Resource Cost Test ratios based on actual 2010 results for SPS’s energy efficiency and load management programs; and (ii) the per kWh incentive, based on deemed
savings, paid to contractors during 2010 under the pilot energy efficiency showerhead program. The Hearing Examiner stated that it was unnecessary for the participants to file post-hearing briefs.

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

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

III. BACKGROUND

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

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

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

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

Id., § 62-17-4(H).

The EUEA requires public utilities providing electric and natural gas service to New Mexico customers to "acquire all cost-effective and achievable energy efficiency and load management resources available in their service territories." Id., § 62-17-5(G). "Achievable" means "those energy efficiency or load management resources available to the utility using its best efforts[.]

Id., § 62-17-4(A). This requirement, for public utilities providing electric service, may not be less than savings of 5% of 2005 total retail kilowatt-hour ("kWh") sales to New Mexico customers in 2014 and 10% of 2005 total retail kWh sales to New Mexico customers in 2020 as a result of programs implemented starting in 2007. Id., § 62-17-5(G).
The EUEA requires the Commission to direct public utilities to evaluate and implement cost-effective programs that decrease energy demand and consumption. *Id.*, § 62-17-5(B). Rule 17.7.2.10 particularly requires utilities to establish energy efficiency programs for their residential customers and allows utilities to establish energy efficiency programs specifically for their low-income customers. Public utilities must obtain Commission approval of energy efficiency and load management programs (collectively referred to as "demand side management" or "DSM" programs) before they are implemented. Public utilities proposing new programs must, before seeking Commission approval, solicit nonbinding recommendations on the design and implementation of the programs from Commission Staff, the Attorney General, the Energy, Minerals and Natural Resources Department and other interested parties. *Id.*, § 62-17-5(E); 17.7.2.8(A) NMAC.

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

The Commission determines the cost effectiveness of DSM programs by applying the "total resource cost test" ("TRC Test"). NMSA 1978, § 62-17-5(C). The EUEA defines the total TRC Test as a standard that is met if the monetary costs that are borne by the utility and the participants and that are incurred to develop, acquire and operate energy efficiency or load management resources on a life-cycle basis are less than the avoided monetary costs associated with developing, acquiring and operating the associated supply-side resources.

*Id.*, § 62-17-4(J). Only programs that are cost effective are eligible for approval. 17.7.2.9(C)(1) NMAC. To be cost effective, application of the TRC Test to a program must result in a ratio of 1.0 or greater. In its
application, a utility must separately identify and present the assumptions, calculations and other elements associated with the TRC test. 17.7.2.9(G) NMAC.

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

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

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

The EUEA requires a public utility, every three years, to submit to the Commission a comprehensive measurement, verification and program evaluation report ("M&V Report") prepared by an independent program evaluator. NMSA 1978, § 62-17-8(B). An evaluation committee selected ADM Associates, Inc. ("ADM") as the independent evaluator for 2009 and 2010 utility programs. Under 17.7.2.13 NMAC, public utilities providing DSM programs must file annual reports which contain, among other things, the most recent M&V Report of the independent program evaluator. On August 2, 2010, SPS filed its 2009 Energy
Efficiency and Load Management Annual Report, which contains ADM's M&V Report of SPS's DSM Programs for calendar year 2009 ("2009 M&V Report"). Tr. at 44.¹

IV. DISCUSSION

A. OVERVIEW OF 2011 PLAN

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

¹ References to the transcript are to "Tr. at _______ ."
² References to prefiled testimony are to the last name of the witness followed by the title of the testimony.
The 2011 Plan proposes seventeen DSM programs — the same sixteen programs that were provisionally approved by the Commission plus a new Consumer Behavior Program. The Programs are:

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

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

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

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

B. **Significant Modifications to Provisionally Approved 2011 Plan**

1. **Home Energy Services Program**

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

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

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3 Att. LEG-STIP-2 is Attachment 2 to Lee Gabler’s Testimony Supporting Supplemental Stipulation as Corrected. References to page numbers of this Attachment are to the page numbers in the upper right corner of the Attachment.
SPS’s evaluation shows that the showerhead measure is viable and cost effective. Between July 29, 2010 and September 29, 2010, 242 showerheads were installed in homes with electric water heating. Supplemental Compliance Report at 1. The key findings of the evaluation are:

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

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

2. Small Business Lighting Program

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

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

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

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

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

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

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

4. **Consumer Behavior Pilot Program**

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

The 2011 Consumer Behavior Program has a $251,500 budget. It does not have energy savings associated with it in 2011. Id. at 21. Based on previous research and the results of consumer behavior programs throughout the country, SPS expects this Program to result in first-year reductions in electricity use averaging 2%. Att. LEG-STIP-2 at 37. SPS states that the persistence of savings from feedback is key to the Program’s cost effectiveness. To assess persistence, SPS would monitor results for up to three program years after start-up. Id. at 38. Program savings would be measured by comparing the Participant Group to a Control Group of approximately 15,000 to 20,000 non-participant customers. Id. at 40.
SPS has been developing an online application, My Account, to enable customers to access account billing and usage information online. SPS activated the site on September 13, 2010. Features under development would enable the My Account site to provide SPS customers with feedback on energy use and conservation information both efficiently and at low cost. However, because these features are not yet developed, SPS has concerns about committing to this option for 2011. Therefore, SPS is proposing the OPOWER alternative at this time. Gabler Direct at 20.

C. MINOR MODIFICATIONS TO PROVISIONALLY APPROVED 2011 PLAN

1. ELECTRIC WATER HEATING REBATES PROGRAM

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

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

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2. **Home Lighting & Recycling Program**

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

3. **Refrigerator Recycling Program**

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

4. **Low-Income Program**

This existing Program consists of a Home Lighting Giveaway component and a Low-Income Home Energy Services component. In 2010, administration of the Home Lighting Giveaway component was
shared by Low-Income Home Energy Services and the New Mexico LIHEAP (Low Income Home Energy Assistance Program) agencies. The Stipulating Parties propose to move administration of the Home Lighting Giveaway component to the third-party energy service companies who implement the Low-Income Energy Services component. Third-party installation contractors would install CFLs at qualifying customer homes. The Stipulating Parties propose this change because the LIHEAP market is becoming saturated and LIHEAP agencies have difficulty distributing all of the bulbs provided by SPS. Gabler Direct at 23; Att. LEG-1 at 11-12 to Gabler Direct. Also relating to the Home Lighting Giveaway component, and as a result of ADM's M&V analysis of the 2009 Program, SPS proposes to change technical assumptions for the measure. Id. at 12.

5. **Residential Saver's Switch Program**

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

SPS proposes to decrease the TRC Test ratio for the Residential Saver's Switch Program from 2.48 to 0.34. This is a result of calculating the TRC Test ratio based on the number of switches installed at the end of a single year rather than on a life-cycle basis. SPS proposes the change to correspond to the preferred method of reporting annual achievements, which includes reporting the impacts of the population of load management programs installed by the end of each year. The single-year TRC analysis results in the Program not being cost effective due to the large initial costs of recruiting participants and installing switches. However, a life-cycle TRC analysis shows that the expected lifetime benefits greatly exceed the expected lifetime costs. Id. at 24-25.
In calendar year 2010, there were 902 participants in the Residential Saver’s Switch Program, compared to 855 projected participants. Nevertheless, SPS calculated a TRC Test ratio for the Program of zero for 2010 because it did not claim savings for 2010. Exh. BR3-1 to SPS’s Response to Third Bench Request.

6. **School Education Kits Program**

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

7. **Business Saver’s Switch Program**

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

SPS proposes to decrease the TRC Test ratio for the Business Saver’s Switch Program from 4.55 to 0.62. This is a result of calculating the TRC Test ratio based on the number of switches installed at the end of a single year rather than on a life-cycle basis. SPS proposes the change to correspond to the preferred method of reporting annual achievements, which includes reporting the impacts of the population of load management programs installed by the end of each year. The single-year TRC analysis results in the Program not being cost effective due to the large initial costs of recruiting participants and installing switches. However, a life-cycle TRC analysis shows that the expected lifetime benefits greatly exceed the expected lifetime costs. *Id.* at 26-27.
In calendar year 2010, there were thirteen participants in the Business Saver's Switch Program, compared to 82 projected participants. Exh. BR3-1 to SPS's Response to Third Bench Request. Participation was limited because SPS received a limited supply of switches from its vendor. Mr. Gabler testified at the hearing that the vendor has committed to supply the necessary inventory of switches and SPS expects to install switches for all projected 2010 and 2011 participants before the start of the control season in May. Tr. at 20, 30. SPS calculated a TRC Test ratio for the Program of zero for 2010 because it did not claim savings for 2010. Exh. BR3-1 to SPS's Response to Third Bench Request.

8. **Cooling Efficiency Program**

This existing Program offers rebates for the purchase of energy efficient air conditioning equipment. The Stipulating Parties propose to double the rebate offered for the purchase of direct expansion units, such as split systems, rooftop air conditioning units, and condensing units, less than 5.4 tons. The purpose of this revision is to encourage more Program participation. Mr. Primm testified that the Cooling Efficiency Program appeared to be falling short of its participation goals for 2010. Primm Testimony in Support of Supp. Stip. at 31. Mr. Gabler explained that the Program has had few participants purchasing air conditioners less than 5.4 tons, which SPS believes is because customers make purchase decisions based solely on the lowest price. SPS anticipates that increasing the rebate would prove a cost effective means of influencing the purchase decision. Gabler Testimony in Support of Supp. Stip. at 14-15.

As a result of ADM's M&V analysis of SPS's 2009 Cooling Efficiency Program, SPS proposes to decrease the measure lifetime for water source heat pumps from 20 years to 15 years. Also, SPS proposes to scale back this Program to better reflect market conditions and to accommodate increased spending for other Programs that are having greater market acceptance. Gabler Direct at 27.

SPS's preliminary analysis indicates that the Cooling Efficiency Program had ten participants in 2010, compared to forty-five projected participants. The preliminary analysis shows a TRC Test ratio of 1.77 for 2010. Exh. BR3-1 to SPS's Response to Third Bench Request.
9. **CUSTOM EFFICIENCY PROGRAM**

This existing Program provides rebates for customized energy efficient technology submitted to SPS for review and analysis. The Stipulating Parties propose to scale back this Program to better reflect market conditions and to accommodate increased spending for other Programs that are having greater market acceptance. Gabler Direct at 27.

SPS's preliminary analysis indicates that the Custom Efficiency Program had three participants in 2010, compared to fifty-one projected participants. The preliminary analysis shows a TRC Test ratio of 1.29 for 2010. Exh. BR3-1 to SPS's Response to Third Bench Request.

10. **LIGHTING EFFICIENCY PROGRAM**

This existing Program provides rebates to customers who purchase and install qualifying lighting products in existing or new construction buildings. The 2011 Plan proposes new rebates for emerging lighting technologies. It also proposes to offer an additional 50% bonus rebate, to be paid to the vendor, for lighting efficiency measures including T12-to-T8 retrofits, T12-to-T5 retrofits, T12-to-T8 delamping, and T12-to-refrigerated LED case lighting. The rebate to the vendor would be 50% of the rebate paid to the customer. The goal of this addition is to encourage removal of T12 fluorescent fixtures from the market. Tr. at 66-67; Supplemental Stipulation, § 1.1(b). As a result of ADM’s M&V analysis of SPS’s 2009 Lighting Efficiency Program, SPS proposes to change technical assumptions for the Program. Gabler Direct at 28-29.

Mr. Primm testified that the Lighting Efficiency Program appeared to be falling short of its participation goals for 2010. Primm Testimony in Support of Supp. Stip. at 30. SPS’s preliminary analysis indicates that the Lighting Efficiency Program had nine participants in 2010, compared to 144 projected participants. The preliminary analysis shows a TRC Test ratio of 5.97 for 2010. Exh. BR3-1 to SPS’s Response to Third Bench Request.
11. **Motor & Drive Efficiency Program**

This existing Program provides rebates for installation of National Electrical Manufacturers Association ("NEMA") Premium Efficiency motors and variable frequency drives in existing and new construction facilities. The Stipulating Parties propose several changes to this Program. First, they propose to discontinue offering New Motor – Plan A rebates for installing NEMA Premium Efficiency Motors. They propose this change because in January 2011, the U.S. Department of Energy was to require all newly manufactured motors to meet or exceed NEMA Premium criteria and there is no viable high efficiency option above NEMA Premium. Second, the Stipulating Parties propose to offer new rebates for Oil Well Pump-Off Controllers. Third, they propose to decrease the budget and goals for the Program due to evaluation of historical performance, customer feedback, and anticipated projects. Gabler Direct at 30.

SPS's preliminary analysis indicates that the Motor & Drive Efficiency Program had fourteen participants in 2010, compared to 105 projected participants. The preliminary analysis shows a TRC Test ratio of 2.67 for 2010. Exh. BR3-1 to SPS's Response to Third Bench Request.

D. **Other**

1. **Joint/Electric Gas Energy Star New Homes Program**

The original Stipulation in this case required SPS to research and evaluate partnering with a gas company that overlaps SPS's service area to develop an Energy Star Homes Program and to add this partnership in 2011 if a joint program were feasible and cost-effective. Uncontested Stipulation, § 3.1.

Mr. Gabler testified that SPS met with New Mexico Gas Company representatives. SPS does not propose adding an Energy Star Homes Program in 2011, for several reasons. First, SPS concluded that an Energy Star New Homes Program would only prove viable until mid-2011 when new Energy Star standards and new New Mexico residential state building codes become effective. SPS believes that adoption of the new building codes would negatively affect participation. It projects that construction of Energy Star-rated
homes will drop considerably once new Energy Star standards become effective in 2011 and that builders who comply with the new standards likely will do so regardless of the existence of a utility incentive. Thus, Mr. Gabler concluded that the increased free ridership would likely cause the Program to fail the TRC Test. Gabler Direct at 32-33; Att. LEG-1 at 19 to Gabler Direct.

Second, based on meetings with homebuilders, SPS perceives low participation and interest in building energy efficient homes. SPS estimates that fewer than 300 homes will be built in its service area in 2011. It states that currently, very few, if any, builders in its service area are building Energy Star-rated new homes. Id. at 19.

Third, SPS states that the Department of Energy is proposing to significantly alter the Energy Star Homes Program participation requirements starting in 2011. SPS states that some changes proposed by the Department of Energy, including adding water measures and additional steps to the process, could increase builder costs by more than $1,000. Id.

The Stipulating Parties do propose to increase the Consumer Education budget by $15,000 to hire an Energy Star Homes expert to perform two to four training sessions for builders and contractors on high efficiency and Energy Star construction techniques. Supplemental Stipulation, § 1.1(d). Mr. Primm testified that this proposal should provide for market transformation-type activities that help to fill the void created by the non-cost effectiveness of Energy Star home programs in SPS’s service territory. Primm Testimony in Support of Supp. Stip. at 31.

2. BUSINESS EDUCATION

The Stipulating Parties propose to increase the Planning and Research budget by $110,000 for SPS to contract with an oil and gas industry consultant who would evaluate energy efficiency opportunities at customer sites. More particularly, the consultant would:

1. Collect/analyze operation and consumption profiles of fifteen oil and gas companies;
2. Accompany SPS Account Managers on site visits;
3. Prepare ten site reports that include recommended energy efficiency projects, estimated project costs, estimated energy savings, and estimated payback period by project, along with information on rebates available or likely to be available for project implementation; and

4. Teach a course on oil and gas energy efficiency potential for Account Managers and customers.

Supplemental Stipulation, § 1.1(e) & Exhibit A. Mr. Gabler testified that SPS would hire a consultant with a thirty-five year history with oil and gas engineering, with whom SPS currently works in the Large Customer Study component of its Custom Efficiency Program. Gabler Testimony in Support of Supp. Stip. at 16.

Mr. Primm testified that the $110,000 expense likely would help SPS gain entry into an as-yet difficult to enter market that has substantial potential to deliver energy efficiency in SPS's service territory. Primm Testimony in Support of Supp. Stip. at 32.

3. **PRODUCT DEVELOPMENT – ENERGY STAR RETAILER INCENTIVE PROGRAM**

The Stipulating Parties propose that SPS coordinate with Public Service Company of New Mexico ("PNM") and El Paso Electric Company ("EPE") during the first six months of 2011 to develop an Energy Star Retailer Incentive Program to encourage retailers such as Wal-Mart, Kmart, Sears, Target, Lowes, Home Depot, and Sam's Club to promote and discount certain Energy Star appliances. The Program, as contemplated, would offer incentives to retailers to increase stocking levels and sales of Energy Star-rated appliances. Supplemental Stipulation, § 1.1(f); Gabler Testimony in Support of Supp. Stip. at 18. Staff witness Primm characterized the Energy Star Retailer Incentive Program as a "consumer electronics program," which would target electronics that are not already targeted by an existing energy efficiency program, such as televisions, DVD recorders, and microwave ovens. Primm Testimony in Support of Supp. Stip. at 32; Tr. at 62-63.

If the Program were determined to be cost effective and feasible for implementation, SPS would include the Program in its 2012 Energy Efficiency and Load Management Plan unless it were included in a joint utility program application filing with PNM and EPE. SPS proposes to use up to $25,000 of the
$92,418 already budgeted for Product Development for this endeavor. Supplemental Stipulation, § 1.1(f); Gabler Testimony in Support of Supp. Stip. at 18.

E. TRC Test

The 2011 Plan as a whole is projected to meet the TRC Test, with an overall projected TRC Test ratio of 2.86. Each individual Program is projected to meet the TRC Test with the exception of the Residential and Business Saver's Switch Programs, the Large Customer-Self Direct Program, and the Consumer Behavior Program. The projected TRC ratios for the Residential and Business Saver's Switch Programs are .34 and .62, respectively. Exh. B to Supplemental Stipulation. Mr. Gabler testified that the Saver's Switch Programs are not anticipated to be cost effective in the first year, but are anticipated to be very cost effective over the lifetime of the switches. Gabler Testimony in Support of Supp. Stip. at 19. The projected TRC ratio for the Large Customer-Self Direct Program is zero. Exhibit B to the Supplemental Stipulation. Mr. Primm testified that the Large Customer-Self Direct Program is a required offering not subject to the TRC Test and which is dependent on customer opt-in. Primm Testimony in Support of Supp. Stip. at 18. SPS would not claim savings from the Consumer Behavior Pilot Program in 2011, due to the expected late start of the Program and because at least six months of consumer interaction is needed to analyze and measure savings from providing energy reports to customers. However, assuming 2% energy savings as estimated by OPOWER, SPS projects a TRC Test ratio for the Program of 1.07. SPS's Response to Third Bench Request. Staff witness Primm testified that it is reasonable to find that all 2011 Plan Programs will likely be cost effective with minimum participation. Primm Testimony in Support of Supp. Stip. at 18-19.

In calculating the total resource cost of programs, costs shared among individual programs, such as market research and planning, program design, M&V and annual reporting shall be allocated to individual programs in proportion to the direct costs assigned to those programs unless a utility demonstrates that another allocation method is more appropriate. 17.7.2.9(H) NMAC. SPS proposes to not allocate its

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F. OPPORTUNITY TO PARTICIPATE AND BENEFIT ECONOMICALLY

Mr. Gabler testified that the 2011 Plan offers every affected customer class the opportunity to participate and benefit economically. Tr. at 38. Mr. Primm testified that the 2011 Plan achieves widespread access and is likely to provide every affected customer class with the opportunity to participate and benefit economically. Primm Testimony in Support of Supp. Stip. at 21.

G. ENERGY EFFICIENCY RIDER

SPS currently collects the costs associated with its DSM Programs through per kWh rates in its Energy Efficiency Rider, its Fourth Revised Rate No. 44. In Case No. 10-00161-UT, the Commission approved a Stipulation allowing SPS to recover through its Energy Efficiency Rider, $3.3 million to remove regulatory disincentives and to provide incentives attributable to participation in Commission-approved DSM portfolio programs offered by SPS during calendar years 2010 and 2011. The Commission authorized SPS to recover the $3.3 million over a twelve-month period, beginning in the first full month following Commission approval of the Stipulation. Certification of Stipulation (11-15-10), adopted by Final Order Approving Certification of Stipulation (12-14-10).

SPS proposes to continue collecting its costs through a revised Energy Efficiency Rider. SPS proposes to collect $14,023,800 through the revised Rider, which equals (i) $10,886,691, which is the budget for the 2011 Plan; plus (ii) $3,300,000 to remove regulatory disincentives and to provide incentives; less (iii) $162,891, which is the over-recovery balance as of December 31, 2010. SPS proposes to assess carrying charges on the monthly over- or under-collection balance at a rate equal to the 2011 customer deposit interest rate, which is 2.02%. Luth Testimony in Support of Supp. Stip. at 5, 7; SPS's

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Response to First Bench Request. The Commission approved SPS’s use of the customer deposit interest rate in previous cases. See Case No. 09-00352-UT, Certification of Stipulation at 44, ¶ F (3-1-10); Case No. 08-00333-UT, Recommended Decision at 50, ¶ E (3-18-09).

The following table shows the current per kWh rates, the proposed per kWh rates, and the percentage increase.

<table>
<thead>
<tr>
<th>Rate Schedule</th>
<th>Present Rider ($/kWh)</th>
<th>Proposed Rider ($/kWh)</th>
<th>Percent Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Service, Residential Heating Service, Residential Water Heating Service, Small General Service, Small Municipal and School Service, Municipal Street Lighting Service, Area Lighting Service</td>
<td>$0.002917</td>
<td>$0.004353</td>
<td>49.23%</td>
</tr>
<tr>
<td>Secondary General Service, Irrigation Service, Large Municipal and School Service</td>
<td>$0.002904</td>
<td>$0.004333</td>
<td>49.21%</td>
</tr>
<tr>
<td>Primary General Service</td>
<td>$0.002875</td>
<td>$0.004291</td>
<td>49.25%</td>
</tr>
<tr>
<td>Large General Service-Transmission</td>
<td>$0.002680</td>
<td>$0.004000</td>
<td>49.25%</td>
</tr>
</tbody>
</table>

SPS’s Response to First Bench Request. The following table shows, for various levels of consumption, the impact of the Proposed Rider.

<table>
<thead>
<tr>
<th>Rate Schedule</th>
<th>Current Total Monthly Bill</th>
<th>Increase in Monthly Energy Efficiency Charge</th>
<th>% Increase in Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Service Tariff 1018.14 @ 500 kWh</td>
<td>$50.53</td>
<td>$0.72</td>
<td>1.43%</td>
</tr>
<tr>
<td>Residential Service Tariff 1018.14 @ 1,000 kWh</td>
<td>$95.46</td>
<td>$1.44</td>
<td>1.50%</td>
</tr>
<tr>
<td>Small General Service Tariff 3110.15 at 1,500 kWh</td>
<td>$131.35</td>
<td>$2.15</td>
<td>1.64%</td>
</tr>
<tr>
<td>Secondary General Service Tariff 4060.1 @ 50 kW, 20,000 kWh</td>
<td>$1,590.74</td>
<td>$28.58</td>
<td>1.80%</td>
</tr>
<tr>
<td>Large General Service – Transmission Tariff 4110.2 @ 4,000 kW, 800,000 kWh</td>
<td>$64,408.00</td>
<td>1,056.00</td>
<td>1.64%</td>
</tr>
</tbody>
</table>


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For an average residential customer consuming 800 kWh in a month, the Energy Efficiency charge would be $3.48 out of a total monthly bill of $78.64 or 4.43% of the bill. SPS’s Response to First Bench Request.

Mr. Luth testified that implementation of the proposed Energy Efficiency Rider would not result in customers paying tariff-rider amounts greater than those authorized by the EUEA. Tr. at 49-50

H. HEARING EXAMINER’S RECOMMENDATION ON SUPPLEMENTAL STIPULATION

Upon receipt of a settlement, the presiding officer shall conduct a public hearing to determine whether the stipulation should be approved. The proponents of a stipulation have the burden of supporting the stipulation with sufficient evidence and legal argument to allow the Commission to approve it. 1.2.2.20(A)(3) NMAC. The Commission recognizes the strong public policy favoring settlement of disputes to avoid costly and protracted litigation. Stipulations must be fair, just and in the public interest. The Commission has applied the following criteria when reviewing the reasonableness of stipulations: (i) is the settlement a product of serious bargaining among capable, knowledgeable parties? (ii) does the settlement, as a whole, benefit customers and the public interest? and (iii) does the settlement, as a whole, violate any important regulatory principle or practice? Case No. 08-00354-UT, Final Order Conditionally Approving Stipulation at 12-13 (7-14-09).

Mr. Primm testified that informed and capable parties participated in the settlement negotiations. Primm Testimony in Support of Supp. Stip. at 30. This is apparent from the evidence admitted in the case.

With one exception, the Supplemental Stipulation benefits customers and the public interest. The 2011 Plan offers DSM programs that offer every affected customer class the opportunity to participate and benefit economically. All but one program in the 2011 Plan was offered in 2010 and, according to SPS’s preliminary results, the majority of the Programs were cost effective in 2010. All but the following Programs had TRC Test ratios of greater than one: (i) Electric Water Heating Rebates; (ii) Residential Saver’s Switch; (iii) Business Saver’s Switch; (iv) Interruptible Credit Option; and (v) Large Customer-Self
Direct. Exh. BR3-1 to SPS's Response to Third Bench Request. As explained by Mr. Primm, the Large
Customer Self-Direct Program is a required offering not subject to the TRC Test. The Saver's Switch
Programs were not cost effective because they were only first offered in the fourth quarter of 2010 and SPS
did not claim any savings from the Programs in 2010. The Programs are not expected to be cost effective in
2011, but this is a result of a change in reporting. The Programs are expected to be cost effective on a life-
cycle basis. Moreover, the Residential Saver's Switch Program exceeded projected participation for 2010.
Exh. BR3-1 to SPS's Response to Third Bench Request.

Continuation of the Electric Water Heating Rebates Program would not benefit customers and is not
in the public interest because the Program is not sufficiently meeting its goals and purposes. Generally,
customers should not pay for programs that are not cost effective. The Electric Water Heating Rebates
Program had zero participants in 2010 during the nine months that it was offered, compared to 145
projected participants, while SPS spent $9,623 on the Program. Id. The Program had only one participant
as of February 2, 2011. SPS proposes no material changes to the Electric Water Heating Rebates Program
that might be expected to spur participation. While SPS proposes to increase its marketing of this Program
in 2011, increased participation as a result of the marketing is speculative and does not justify continuing
the Program.

It is with hesitation that the Hearing Examiner recommends continuation of the Interruptible Credit
Option Program. The Interruptible Credit Option Program had zero participants in 2010, compared to five
projected participants, while SPS spent $15,766 on the Program. Exh. BR3-1 to SPS's Response to Third
Bench Request. Despite this poor performance, the Program should be continued for another year because
there is a need for interruptible load and because SPS is proposing material changes to the Program in
response to customer feedback. In particular, SPS expects participation in the summer only interruptible
credit option measure because customers may participate in the measure without committing to a three-
year term.
All but one of SPS’s business segment programs fell short of SPS’s participation goals for 2010. See Exh. BR3-1 to SPS’s Response to Third Bench Request. However, with the exceptions already discussed, SPS’s preliminary results indicate that they nevertheless passed the TRC Test for 2010. This is in part because a single participant in a business energy efficiency program can generate a significant amount of savings. Tr. at 9-10, 24, 56-57. Moreover, Mr. Gabler testified that the cooling efficiency, custom efficiency, lighting efficiency and motor and drive efficiency programs are large sales cycle programs. He explained that SPS spends significant time with customers before they become participants in these programs. He testified that SPS already has more savings from these programs in the pipeline for 2011 than it achieved from the programs during 2010. Id. at 20-21. Thus, the low participation in many of the business segment programs in 2010 should not preclude their continuation at least through 2011.

The Supplemental Stipulation does not violate important regulatory principles. On the contrary, it complies with SPS’s obligation under the EUEA to “acquire all cost-effective and achievable energy efficiency and load management resources available in [its] service [territory].” NMSA 1978, § 62-17-5(G). It also advances SPS toward its target of saving 187.5 gigawatt-hours at the customer meter by 2014, as required by the EUEA. Att. LEG-STIP-2 at 1.

In sum, the Supplemental Stipulation should be approved except that the proposed continuation of the Electric Water Heating Rebates Program should be disapproved.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Statement of the Case, Background, Discussion, and all findings and conclusions therein, whether or not separately stated, numbered or designated as findings or conclusions, are incorporated by reference herein as Findings of Fact and Conclusions of Law.

2. The Commission has jurisdiction over the parties and the subject matter of this case.
3. The 2011 Plan's portfolio of DSM programs is cost-effective and designed to provide every affected customer class with the opportunity to participate and benefit economically.

4. SPS's TRC Test calculations are reasonable and appropriate.

5. SPS's Application and supporting testimony and exhibits relating to cost recovery through SPS's Energy Efficiency Rider provide the information required by and meet the requirements of 17.7.2.12 NMAC.

6. The 2011 Plan budget, less the budget for continuing the Electric Water Heating Rebates Program, for which SPS seeks recovery through its Energy Efficiency Rider, is just and reasonable.

7. SPS's cost recovery proposal is designed to recover the reasonable costs of the 2011 Plan, the cost of removing disincentives for expenditures on DSM measures, incentives, and the amounts reconciled under the existing Energy Efficiency Rider.

8. The Energy Efficiency Rider rates under the Supplemental Stipulation are not just and reasonable to the extent that they incorporate recovery of costs associated with continuing the Electric Water Heating Rebates Program.

9. SPS has demonstrated that application of its Energy Efficiency Rider shall not result in customers paying tariff rider amounts greater than those authorized by statute.

VI. DECRETAL PARAGRAPHS

A. The findings and conclusions and the decretal paragraphs contained in the Certification of Stipulation are adopted, approved and ordered by the Commission.

B. The 2011 Plan, as proposed under the Supplemental Stipulation, is approved except that continuation of the Electric Water Heating Rebates Program is disapproved.

C. Within twenty days of issuance of a Final Order in this case, SPS shall file an advice notice to revise its Energy Efficiency Rider to reflect (i) the 2011 Plan as approved and modified by the Commission;
and (ii) any under- or over-recovery resulting from 2010 costs and revenues known at that time (along with any associated carrying charges incurred by under- or over-recovery under the Tracker).

D. Within twenty days of issuance of a Final Order in this case, SPS shall file an advice notice to revise its Interruptible Credit Option tariff to reflect the Interruptible Credit Option Program as proposed under the Supplemental Stipulation.

E. Within twenty days of issuance of a Final Order in this case, Staff shall file, in a new docket, a petition for rulemaking to amend 17.7.2 NMAC as proposed in Staff's October 19, 2010 filing in this case.

F. As part of its next application for approval of DSM programs, SPS shall include (i) its 2010 Energy Efficiency and Load Management Annual Report; and (ii) a table comparing projected participation and expense levels for each program in SPS's 2011 Plan with actual participation and expense levels beginning January 1, 2011 and through the date that actual data is available.

G. This Order is effective immediately.

H. This Docket is closed.

ISSUED at Santa Fe, New Mexico on February 18, 2011.

NEW MEXICO PUBLIC REGULATION COMMISSION

Carolyn R. Glick
Hearing Examiner

Certification of Stipulation
Case No. 09-00352-UT
EXHIBIT 1

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF SOUTHWESTERN PUBLIC SERVICE COMPANY’S APPLICATION FOR APPROVAL OF ITS 2010/11 ENERGY EFFICIENCY AND LOAD MANAGEMENT PLAN AND ASSOCIATED PROGRAMS, REQUESTED VARIANCES, AND COST RECOVERY TARIFF RIDER, CASE NO. 09-00352-UT

SOUTHWESTERN PUBLIC SERVICE COMPANY,

APPLICANT

UNCONTESTED SUPPLEMENTAL STIPULATION
(AS CORRECTED ON JANUARY 19, 2011)

In accordance with 1.2.2.20(A) NMAC, Applicant, Southwestern Public Service Company (“SPS”), the Utility Division Staff (“Staff”) of the New Mexico Public Regulation Commission (“Commission”), and the Coalition for Clean Affordable Energy (“CCAE”), (collectively, “the Signatories”) have entered into this Uncontested Supplemental Stipulation (“Supplemental Stipulation”) as the basis for recommending that the Commission approve SPS’s modified 2011 Energy Efficiency and Load Management Plan and associated programs (“2011 Plan/Programs”). The other parties to this case, the New Mexico Attorney General, Intrepid Potash, New Mexico Gas Company, and Western Resource Advocates, take no position regarding the Supplemental Stipulation.

In accordance with the New Mexico Efficient Use of Energy Act, as amended in 2008 (NMSA 1978, Sections 62-17-1 through 62-17-11, “EUEA”), the Commission’s Energy Efficiency Rule (17.7.2 NMAC, “Rule”), and the New Mexico Public Utility Act (NMSA 1978, Sections 62-3-1 et seq., “PUA”), the Signatories submit this Supplemental Stipulation which represents a just and reasonable resolution of all issues related to SPS’s 2011 Plan/Programs and is consistent with the public interest.
Recitals

A. On January 13, 2010, SPS, CCAE, and Staff entered into an Uncontested Stipulation in this case ("Initial Stipulation"), which in part, provisionally approved SPS's 2011 Plan/Programs subject to the requirements in Section 2.3 of the Initial Stipulation that SPS file a compliance report by October 1, 2010, that identifies all proposed modifications to the 2011 Plan (see Section 2.3(a)). Section 2.3(d) further required that if SPS proposes significant modifications to its 2011 Plan, it file an application for Commission approval of the proposed modifications.

B. In this regard, the Hearing Examiner issued a Certification of Stipulation on March 1, 2010, and on March 11, 2010, the Commission issued its Final Order Approving the Certification of Stipulation.

C. In accordance with Section 2.3(d) of the Initial Stipulation, on October 1, 2010, SPS filed an application and supporting direct testimony requesting the Commission grant the following relief related to final approval of SPS's 2011 Plan/Programs:

2. approve SPS's modified 2011 Plan/Programs to be implemented in 2011;
3. approve and authorize SPS's recovery of its modified 2011 Plan costs through SPS's proposed tariff rider ("2011 EE Rider");
4. grant SPS's request to extend the deadline for the evaluation of the 2010 Showerhead Pilot program until November 1, 2010; and
5. grant to SPS all other approvals and authorizations that may be required under the EUEA, the Rule, and the PUA for SPS to implement its modified 2011 Plan and proposed 2011 EE Rider.

D. In summary, SPS's modified 2011 Plan proposes modifications to the following Residential and Business Segment programs:

1. minor modifications to its Residential Electric Water Heating, Home Lighting, Low Income, Refrigerator Recycling, Saver's Switch, and School Education Kits programs;
(2) significant modifications to its Home Energy Services program;
(3) the addition of a Consumer Behavior program;
(4) minor modifications to the Business Custom Efficiency, Cooling Efficiency, Lighting Efficiency, Motor and Drive Efficiency, and Saver's Switch programs; and
(5) significant modifications to the Interruptible Credit Option and Small Business Lighting programs.

E. On October 26, 2010, the Commission issued an Order Reopening Case for Consideration of Proposed Modifications to SPS’s 2011 Plan.

F. On November 1, 2010, SPS filed its Supplemental Compliance Report and supporting direct testimony, addressing the evaluation of SPS’s 2010 Showerhead Pilot program and recommending the addition of a showerhead component as a measure to its Home Energy Services Program for 2011.

G. This Supplemental Stipulation addresses not only the program and budget modifications proposed by SPS in its application, but also additional modifications to existing direct and indirect programs agreed to by SPS, CCAE, and Staff.

Agreements

The Signatories agree that the program and budget modifications to SPS’s 2011 Plan proposed in SPS’s application and the stipulated modifications proposed by the Signatories are reasonable, necessary, and in the public interest. By this Supplemental Stipulation, the Signatories agree as follows:

Section 1. Stipulated Modifications to SPS’s 2011 Plan/Programs

In accordance with Supplemental Stipulation Exhibit A, attached hereto (the term sheet agreed to by the Signatories), the following stipulated modifications will be included in the direct and indirect programs and budgets under the Residential, Business, and Planning and Development Segments of SPS’s 2011 Plan:
1.1. 2011 Program Modifications and Additions.

(a) Refrigerator Recycling Program: The Refrigerator Recycling Program will be modified to increase the rebate from $50 per unit to $75 per unit to encourage increased participation. As a result, the 2011 program budget will increase by $12,500 for a total 2011 budget of $144,871. SPS will continue to review and evaluate the program during 2011 to determine if further changes to the program are necessary.

(b) Business Lighting Efficiency Program: The Business Lighting Efficiency Program will be modified to offer an additional 50 percent “bonus” rebate, to be paid to the vendor, for lighting efficiency measures including T12-to-T8 retrofits, T12-to-T5 retrofits, T12-to-T8 delamping, or T12-to-refrigerated LED case lighting. The goal of the bonus contractor rebate will be further incentivizing removal of T12 fluorescent fixtures from the market. The 2011 budget will be increased by an additional $15,000 for the “bonus” rebates, resulting in a total budget of $1,032,290.

(c) Business Cooling Efficiency Program: The Business Cooling Efficiency Program will be modified by doubling the rebate offering for direct expansion (DX) units less than 5.4 tons. An additional $3,833 will be added to the current 2011 budget for a total 2011 budget of $329,347.

(d) Consumer Education: The Consumer Education budget will be increased by $15,000 for ENERGY STAR Homes building and contractor training on high efficiency and ENERGY STAR construction techniques resulting in a total Consumer Education budget of $144,252. SPS will hire a regional or national ENERGY STAR Homes expert to perform two to four training sessions throughout its service area in 2011. If SPS does not need the entire $15,000 to pay for the training sessions, the remainder will not be used for other programs or training. The training sessions will be actively promoted to builders and contractors throughout the SPS New Mexico service area.

(e) Business Education: SPS will add a Business Education indirect line item to the Planning and Research Segment of its 2011 Plan to encourage and develop energy efficiency opportunities for SPS customers in the oil and gas industry. The 2011 budget for Business Education will be $110,000, which will be used to contract with an oil and gas industry
consultant to evaluate energy efficiency opportunities at customer sites and perform tasks as described in Supplemental Stipulation Exhibit A. If this offering is unsuccessful in engaging customers to evaluate energy efficiency opportunities at their site(s), the budget will not be spent.

SPS will prepare and disseminate a report to interested parties summarizing the consultant's findings regarding cost effective energy savings potential in the oil and gas sector, without revealing confidential information concerning individual companies. In addition, one year after the conclusion of the consultant's work, SPS will prepare and disseminate a report to interested parties summarizing actions taken and energy savings achieved, or in the process of being achieved, as a result of this effort without revealing any confidential information concerning individual companies.

(f) Product Development - ENERGY STAR Retailer Incentive Program: SPS will seek to coordinate with Public Service Company of New Mexico ("PNM") and El Paso Electric ("EPE") during the first six months of 2011 to develop a cost effective statewide ENERGY STAR retailer incentive program that will incent multiple retailers such as Wal-Mart, Kmart, Sears, Target, Lowes, Home Depot, and Sam's Club to promote and discount certain ENERGY STAR appliances. If a statewide ENERGY STAR Retailer Incentive Program is determined to be cost effective and feasible for implementation, SPS will include the program in its 2012 Energy Efficiency and Load Management Plan, unless it is included in a joint utility program application filing with PNM and EPE. SPS has $92,418 budgeted for Product Development in its 2011 Plan, and will utilize up to $25,000 of those existing funds in the development of this potential new program. Accordingly, no budget revisions are required for the 2011 Product Development line item.

1.2 Modifications to 2011 Plan/Program Budget and Goals.

(a) The program budgets for the 2011 Plan/Programs, as modified, will increase by $156,333. Table STIP-1 below summarizes the budget impacts due to the modifications to SPS's 2011 Plan agreed to in the Supplemental Stipulation. Targeted participation remains unchanged as a result of the modifications, while energy and demand savings increase slightly. Participation is projected to be 65,164 and savings targets are 13,829 net kWs of peak load reduction at generator and 37,357,603 net kWhs of energy savings at generator.
Table STIP-1
Summary of Supplemental Stipulation Budget for the 2011 Plan

<table>
<thead>
<tr>
<th>Program</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Modified SPS 2011 Plan Totals</td>
<td>$10,730,358</td>
</tr>
<tr>
<td>Refrigerator Recycling</td>
<td>+$12,500</td>
</tr>
<tr>
<td>Business Lighting Efficiency</td>
<td>+$15,000</td>
</tr>
<tr>
<td>Business Cooling Efficiency</td>
<td>+$3,833</td>
</tr>
<tr>
<td>Consumer Education</td>
<td>+$15,000</td>
</tr>
<tr>
<td>Business Education (new)</td>
<td>+$110,000</td>
</tr>
<tr>
<td>Product Development – ENERGY STAR Retailer</td>
<td>+$0</td>
</tr>
<tr>
<td>Incentive Program (new)</td>
<td></td>
</tr>
<tr>
<td><strong>Sub-total from 2011 Plan Stipulated Changes</strong></td>
<td>+$156,333</td>
</tr>
<tr>
<td><strong>New Totals</strong></td>
<td>$10,886,691</td>
</tr>
</tbody>
</table>

(b) Table 1b to the 2011 Plan (see page 3, SPS’s 2011 Plan Budgets and Goals) will be revised to reflect the stipulated modifications agreed to by the Signatories. Supplemental Stipulation Exhibit B includes revised Table 1b, which shows the impact of the stipulated modifications to budget, goals and participation levels for the respective programs and the total portfolio savings forecasts and TRC ratios.

1.3 Modifications to SPS’s 2011 Energy Efficiency Rider.

(a) The Signatories will support SPS’s request for Commission approval of a tariff rider to recover the costs incurred by SPS that are related to SPS’s proposed modifications to its energy efficiency and load management programs and the stipulated modifications as described above.

(b) In accordance with 17.7.2.13(C)(5) NMAC, SPS will continue to reconcile its collections from the prior year EE Rider at the time SPS files its annual report on May 1st.

(c) Based on the stipulated program and budget modifications described above, SPS’s 2011 EE Rider Values will be increased as shown in Table STIP-2.
Table STIP-2: 2011 EE Rider Rates under Supplemental Stipulation*

<table>
<thead>
<tr>
<th>Rate Schedule</th>
<th>Rate ($/kWh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Service, Residential Heating Service, Residential Water Heating</td>
<td>$0.004353</td>
</tr>
<tr>
<td>Service, Small General Service, Small Municipal and School Service,</td>
<td></td>
</tr>
<tr>
<td>Municipal Street Lighting Service, Area Lighting Service</td>
<td></td>
</tr>
<tr>
<td>Secondary General Service, Irrigation Service, Large Municipal and School</td>
<td>$0.004333</td>
</tr>
<tr>
<td>Service</td>
<td></td>
</tr>
<tr>
<td>Primary General Service</td>
<td>$0.004291</td>
</tr>
<tr>
<td>Large General Service – Transmission</td>
<td>$0.004000</td>
</tr>
</tbody>
</table>

* 2011 EE Rider Rates include the $3.3 million for energy efficiency disincentives and incentives recently approved in Case No. 10-00161-UT.

The estimated average bill impacts of the 2011 EE Rider are provided in Table STIP-3:

Table STIP-3: Average Customer Bill Impact from Current Bill to Supplemental Stipulation

<table>
<thead>
<tr>
<th>Average Customer Impacts of 2011 EE Plan under Supplemental Stipulation Terms</th>
<th>Rate Schedule</th>
<th>Current Total Monthly Bill</th>
<th>Stipulated Dollar Increase in Monthly EER Charge</th>
<th>% Increase in Bill Resulting from Supplemental Stipulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Service</td>
<td>Tariff 1018.14 @ 500 kWh</td>
<td>$ 50.53</td>
<td>$ 0.72</td>
<td>1.43%</td>
</tr>
<tr>
<td>Residential Service</td>
<td>Tariff 1018.14 @ 1,000 kWh</td>
<td>$ 95.46</td>
<td>$ 1.44</td>
<td>1.50%</td>
</tr>
<tr>
<td>Small General Service</td>
<td>Tariff 3110.15 at 1,500 kWh</td>
<td>$ 131.35</td>
<td>$ 2.15</td>
<td>1.64%</td>
</tr>
<tr>
<td>Secondary General Service</td>
<td>Tariff 4060.1 @ 50 kW, 20,000 kWh</td>
<td>$1,590.74</td>
<td>$ 28.58</td>
<td>1.80%</td>
</tr>
<tr>
<td>Large General Service - Transmission</td>
<td>Tariff 4110.2 @ 4,000 kW, 800,000 kWh</td>
<td>$ 64,408.00</td>
<td>$1,056.00</td>
<td>1.64%</td>
</tr>
</tbody>
</table>

(d) the Signatories will support SPS’s request for Commission approval for SPS to continue to use the customer deposit interest rate to calculate carrying charges on the over- or under-collection balance resulting from SPS’s 2011 EE Rider.
Section 2. Obligation to Support this Supplemental Stipulation

2.1 The Signatories agree that they will support the Commission’s approval of this Supplemental Stipulation in this case and any associated proceeding.

Section 3. Admission of SPS’s Pre-filed Testimony and Other Filings into Record

3.1 The Signatories agree to the admission into the case record of: (1) the pre-filed Direct Testimony in Support of the Modifications to SPS’s 2011 Plan of Lee E. Gabler and Richard M. Luth, and attachments filed on October 1, 2010; (2) the Supplemental Testimony of Lee E. Gabler and attachments, filed on November 1, 2010; (3) SPS filings and the other parties’ filings in the case; and (4) testimony filed in support of the Supplemental Stipulation.

Section 4. Effect and Limitation of Supplemental Stipulation

4.1 This Supplemental Stipulation is the result of negotiation, compromise, settlement, and accommodation, which the Signatories agree is in the public interest and should be accepted and approved by the Commission.

4.2 The Signatories also agree that the terms and conditions in this Supplemental Stipulation are interdependent, and that the various provisions of this Supplemental Stipulation are not severable. None of the provisions of this Supplemental Stipulation shall become fully operative unless the Commission shall have entered a final order approving this Supplemental Stipulation. If the Commission issues a final order inconsistent with the terms of this Supplemental Stipulation, each Signatory has the right to withdraw from this Supplemental Stipulation, to submit testimony, and to obtain a hearing and advocate any position it deems appropriate with respect to any issue in this Supplemental Stipulation. This Supplemental Stipulation does not resolve any claims, issues, or proceedings pending in or pertaining to other jurisdictions.

4.3 There are no third party beneficiaries of this Supplemental Stipulation. Although this Supplemental Stipulation represents a settlement among the Signatories with respect to the issues presented in this case, this Supplemental Stipulation is merely a settlement proposal submitted to the Commission, which has the authority to enter an order resolving this case. By approving this Supplemental Stipulation, the Commission is not establishing any precedent except for the matters specifically provided for in the Supplemental Stipulation. The Signatories
agree that this Supplemental Stipulation resolves issues only with respect to SPS’s New Mexico retail jurisdiction and shall not be binding on or have an effect on proceedings in SPS’s other jurisdictions.

4.4 This Supplemental Stipulation shall be binding upon and inure to the benefit of the successors and assigns of the Signatories.

4.5 This Supplemental Stipulation is binding on each of the Signatories only for the purpose of settling the issues as set forth in this Supplemental Stipulation and for no other purposes. The matters resolved in this Supplemental Stipulation are resolved on the basis of a compromise and settlement. Except to the extent that this Supplemental Stipulation expressly governs a Signatory’s rights and obligations for future periods, this Supplemental Stipulation shall not be binding or precedential on a Signatory outside of this proceeding or a proceeding to enforce the terms of this Supplemental Stipulation. This Supplemental Stipulation shall have no effect on the way transaction agreements not discussed in this Supplemental Stipulation are treated. This Supplemental Stipulation shall have no effect on any Signatory’s right to raise any issue other than those specifically addressed in this Supplemental Stipulation. It is acknowledged that a Signatory’s support of the matters contained in this Supplemental Stipulation may differ from the position taken or testimony presented by it in other cases, dockets, and jurisdictions. To the extent that there is a difference, a Signatory does not waive its position in any of those other cases and dockets. Because this is a stipulated resolution, no Signatory is under any obligation to take the same positions as set out in this Supplemental Stipulation in other cases, whether those cases present the same or a different set of circumstances, except as otherwise may be explicitly provided by this Supplemental Stipulation.

4.6 The provisions of this Supplemental Stipulation are intended to relate to only the specific matters referred to in this Supplemental Stipulation. Nothing in this Supplemental Stipulation shall resolve any principle or establish any precedent or settled practice.

Section 5. Waivers, Variances, and other Approvals

5.1 To the extent additional waivers, variances, or approvals are required to effectuate the Supplemental Stipulation, the Signatories will support the Commission granting all appropriate waivers, variances and approvals to SPS that are necessary for the Commission’s
review and action on the Supplemental Stipulation and the modifications to SPS’s 2011 Plan/Programs.

Section 6. Multiple Counterparts

6.1 This Supplemental Stipulation may be executed in any number of counterparts, including by telefax or PDF signature, and each counterpart shall be deemed to be an original and all counterparts will constitute one and the same agreement.

This Corrected Supplemental Stipulation is executed by the following fully and duly authorized representatives of the Signatories on this 17th day of January 2011.

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Attorney for the Coalition of Clean Affordable Energy
CORRECTED SUPPLEMENTAL STIPULATION EXHIBIT A

2011 Energy Efficiency and Load Management Plan Settlement Modifications

Term Sheet

As Corrected On January 19, 2011

The following summarizes the program modifications to SPS’s amended 2011 Energy Efficiency and Load Management Plan agreed to by SPS, Utility Division Staff, and CCAE and will serve as the basis for the uncontested stipulation to be filed by the parties no later than January 13, 2011:

Residential Programs:

1) Refrigerator Recycling Program: In order to stimulate more participation and meet 2011 goals in this under-performing program, SPS will review this program during 2011 and decide if any changes need to be made to the implementation methods. In addition, SPS will increase the rebate in 2011 to $75.00 per refrigerator (from $50.00 in 2010). This increases the budget by approximately $12,500.

Business Programs:

2) Lighting Efficiency Program: In order to stimulate more participation and meet 2011 goals for this program, SPS will offer an additional 50 percent “bonus” rebate, paid to the vendor, for T12-to-T8 retrofits, T12-to-T5 retrofits, T12-to-T8 delamping, or T12-to-refrigerated LED case lighting. The goal of the bonus contractor rebate will be further incentivizing removal of T12 fluorescent fixtures from the market. An additional $15,000 in rebate dollars will be added to the current budget.

3) Cooling Efficiency Program: In order to stimulate more participation in this program and meet 2011 goals, SPS will double the rebates for direct expansion (DX) units less than 5.4 tons. An additional $3,833 will be added to the current budget.

Planning & Research Segment:

4) Consumer Education: SPS will add $15,000 to the Consumer Education budget for ENERGY STAR Homes building and contractor training on high efficiency and ENERGY STAR construction techniques.

SPS proposes to proceed with a plan to hire a regional or national Energy Star Homes expert to perform two to four training sessions throughout its service area in 2011. If SPS does not need the entire $15,000 to pay for the training sessions, the remainder will not be used for other programs or training. The training sessions will be actively promoted to builders and contractors throughout the SPS New Mexico service area.
5) Business Education: SPS proposes funding for an oil and gas industry expert to evaluate energy efficiency opportunities at customer sites. Xcel Energy operating companies offers study funding in other jurisdictions and has had success because it creates a prioritized list of projects so customers can evaluate and gain approval for upgrades, technical detail (to help in preparing applications and analysis) and gives SPS representatives specific knowledge on the customer’s operations to engage in relevant energy efficiency opportunities.

SPS is currently working with a consultant through the Large Customer Study component of the Custom Efficiency program who has a 35-year history with oil and gas engineering. This consultant is on a time and materials contract. If this offering is unsuccessful in engaging customers to evaluate energy efficiency opportunities at their site(s), the budget will not be spent thereby lowering the risk to ratepayers.

For these reasons SPS believes that targeting the study funding at oil and gas customers in New Mexico will be effective in engaging the industry in energy efficient upgrades. The proposal has the following components:

In order to stimulate participation in SPS’s DSM business programs, a new indirect line item will be added to the portfolio to contract an oil and gas consultant to perform the following tasks with a total new line item budget of $110,000.

1. Collect/analyze operation and consumption profiles of 15 oil & gas companies (producers and pipelines);
2. Consultant will accompany SPS Account Managers on site visits (15 sites at 3 per week);
3. Prepare 10 site reports that include recommended energy efficiency projects, estimated project costs, estimated energy savings, and estimated payback period by project, along with information on rebates available or likely to be available for project implementation; and
4. Teach a course on oil and gas energy efficiency potential for both account managers and customers.

At the conclusion of the consultant’s work, SPS will prepare and disseminate a report to interested parties summarizing the consultant’s findings regarding cost effective energy savings potential in the oil and gas sector without revealing confidential information concerning individual companies. In addition, one year after the conclusion of the consultant’s work, SPS will prepare and disseminate a report to interested parties summarizing actions taken and energy savings achieved, or in the process of being achieved, as a result of this effort without revealing any confidential information concerning individual companies.

6) Product Development - ENERGY STAR Retailer Incentive Program: SPS commits to working with PNM and EPE during the first six months of 2011 on development of a cost effective statewide program that will incent multiple retailers such as Wal-Mart, Kmart, Sears, Target, Lowes, Home Depot, and Sam’s Club to promote and discount certain ENERGY STAR appliances. Provided that the program after development is cost effective and feasible for implementation, the program will be filed in SPS’s next energy efficiency plan for 2012, unless it is included in a joint utility program application filing by SPS and other utilities. SPS has $92,418 budgeted for Product Development in the 2011 Plan and
will utilize up to $25,000 of those existing funds in the development of this potential new program. Therefore, no new funds are required.

The table below summarizes the budget impacts due to the settlement modifications to SPS's 2011 Energy Efficiency and Load Management Plan. Targeted participation remains unchanged. Savings have been adjusted to reflect the updated technical assumptions for the Home Energy Services Program that were a result of the SPS New Mexico Residential Showerhead Pilot Report filed November 1, 2010. Participation is projected to be 65,164 and savings targets are 13,829 for Net Gen. kW and 37,357,603 Net Gen kWh. These savings adjustments are reflected in the Supplemental Stipulation Exhibit B, Table 1b: SPS's 2011 Plan Budgets & Goals (Proposed).

**Summary of Settlement Budget Impact to 2011 Plan**

<table>
<thead>
<tr>
<th>Program</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Totals</td>
<td>$10,730,358</td>
</tr>
<tr>
<td>Refrigerator Recycling</td>
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</tr>
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<td>+$15,000</td>
</tr>
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<td>Business Cooling Efficiency</td>
<td>+$3,833</td>
</tr>
<tr>
<td>Consumer Education</td>
<td>+$15,000</td>
</tr>
<tr>
<td>Business Education (new)</td>
<td>+$110,000</td>
</tr>
<tr>
<td>Product Development – ENERGY STAR Retailer</td>
<td>+$0</td>
</tr>
<tr>
<td>Incentive Program (new)</td>
<td></td>
</tr>
<tr>
<td>Sub-total from Plan changes</td>
<td>+$156,333</td>
</tr>
<tr>
<td>New Totals</td>
<td>$10,886,691</td>
</tr>
</tbody>
</table>
## CORRECTED SUPPLEMENTAL STIPULATION EXHIBIT B

### Table 1b: SPS's 2011 Plan Budgets & Goals (Proposed)

<table>
<thead>
<tr>
<th>2011</th>
<th>Electric Participants</th>
<th>Electric Budget</th>
<th>Customer kW</th>
<th>Net Customer kWh</th>
<th>Net Generator kW</th>
<th>Net Generator kWh</th>
<th>TRC Test</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential Segment</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consumer Behavior Program (My Account)</td>
<td>15,000</td>
<td>$215,500</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0.00</td>
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<tr>
<td>Electric Water Heating Rebates</td>
<td>15,000</td>
<td>$20,000</td>
<td>0</td>
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<td>0</td>
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<td>0.00</td>
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<tr>
<td>Evaporative Cooling Rebates</td>
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<td>$23,000</td>
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<td>$34,786</td>
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<td>Home Energy Services</td>
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<td>$7,514,000</td>
<td>6,573</td>
<td>$1,516,000</td>
<td>4,345</td>
<td>$2,654,000</td>
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<tr>
<td>Home Lighting &amp; Recycling</td>
<td>37,950</td>
<td>$17,410</td>
<td>8,115</td>
<td>$6,641,000</td>
<td>764</td>
<td>$7,232,000</td>
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<tr>
<td>Residential Low-Income</td>
<td>2,780</td>
<td>$293,042</td>
<td>918</td>
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<td>110</td>
<td>$982,679</td>
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<tr>
<td>Refrigeration Recycling</td>
<td>40</td>
<td>$49,000</td>
<td>131</td>
<td>$544,000</td>
<td>62</td>
<td>$699,000</td>
<td>0.24</td>
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<tr>
<td>Residential Saver's Switch</td>
<td>1,716</td>
<td>$456,000</td>
<td>5,405</td>
<td>13,473</td>
<td>2,071</td>
<td>15,086</td>
<td>0.24</td>
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<tr>
<td>School Education Kits</td>
<td>2,372</td>
<td>$164,445</td>
<td>2,145</td>
<td>$540,564</td>
<td>211</td>
<td>$605,311</td>
<td>2.41</td>
</tr>
<tr>
<td><strong>Residential Segment Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td><strong>Business Segment</strong></td>
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<tr>
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<td><strong>2011 TOTAL</strong></td>
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<td>$10,886,691</td>
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<td>$33,827,004</td>
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<td>$37,337,503</td>
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</table>
BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

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

SOUTHWESTERN PUBLIC SERVICE COMPANY,

APPLICANT

CASE NO. 09-00352-UT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Errata Notice for Uncontested Supplemental Stipulation filed in this Case and Notice of Filing Corrected Supplemental Stipulation filed in this case was electronically communicated, hand-delivered, or sent via overnight delivery or United States Mail, as indicated below, to each of the following on this 19th day of January 2011:

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