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ARIZONA CORPORATION COMMISSION

December 16, 2005

Mr. William Pezalla
General Manager
Gila River Indian Community Utility Authority
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Chandler, Arizona 85226-4211

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2005 DEC 16 P 4: 18

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RE: Letter in Docket No. RE-00000C-00-0377

Dear Mr. Pezalla:

I have reviewed your letter dated December 8, 2005, regarding eligibility of certain renewable energy projects under the Commission's Environmental Portfolio Standard Rule, A.A.C. R14-2-1618. I certainly appreciate the frustration you must feel in your efforts to obtain purchasers for the planned photovoltaic project you describe in your letter. This letter is intended to respond to your request for confirmation that Affected Utilities may comply with the Commission's Environmental Portfolio Standard by acquiring renewable resources outside the service territory defined by their Certificate of Convenience and Necessity. I believe the Rule is sufficiently clear that there is no purpose to be served by the Commission engaging in a process to "clarify" its intent.

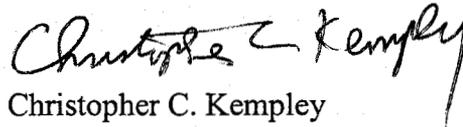
With that introduction, let me simply indicate my view in a direct manner. I don't believe that there is any reasonable interpretation of the Rule that could conclude that it excludes from consideration any renewable project simply because the project is physically located outside the utility's certificated area. I say this without equivocation. The Rule includes explicit multipliers that enhance the credits obtained if the projects from which they are obtained are **inside Arizona**, (A.A.C. R14-2-1618.C). Certainly none of our electric utilities have certificated areas that are outside Arizona. Thus, the rule plainly contemplates the possibility that its requirements could be met from out of state resources, which would be outside a utility's certificated area, by definition.

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Furthermore, I believe that all of our utilities rely on generating assets that are outside their service territories. As you probably know, APS owns generating assets that are located in many parts of the state and acquires capacity and energy from generating assets that are located throughout the West. I have no reason to believe that other utilities in Arizona behave any differently. We are increasingly reminded that the market for electricity in the West is a regional one, not a local one. Under these circumstances, I see no reasonable possibility of an entity successfully claiming that it is foreclosed from complying with the Environmental Portfolio Standard by acquiring renewable resources that are located outside that utility's certificated area.

As I stated at the outset of this letter, I appreciate the frustration you must be feeling in your attempts to market your proposed project. However, I believe the Commission's Rule is clear with respect to the issue that you raise. Please feel free to contact me if you have any questions as a result of this letter. My direct telephone number is (602) 542-6025.

Sincerely,



Christopher C. Kempley
Chief Counsel
Legal Division

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cc: Docket Control + 13 Copies
Service List for Environmental Portfolio Standard
Docket No. RE-00000C-00-0377