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AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE
APPLICATION OF ARIZONA PUBLIC
SERVICE COMPANY FOR A HEARING
TO DETERMINE THE FAIR VALUE OF
THE UTILITY PROPERTY OF THE
COMPANY FOR RATEMAKING
PURPOSES, TO FIX A JUST AND
REASONABLE RATE OF RETURN
THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN, AND TO AMEND
DECISION NO. 67744

DOCKET NO. E-01345A-05-0816
EXCEPTIONS TO THE RECOMMENDED
DECISION AND ORDER OF
SOLAR ADVOCATES

IN THE MATTER OF THE INQUIRY
INTO THE FREQUENCY OF
UNPLANNED OUTAGES DURING 2005
AT PALO VERDE NUCLEAR
GENERATING STATION, THE CAUSES
OF THE OUTAGES, THE
PROCUREMENT OF REPLACEMENT
POWER AND THE IMPACT OF THE
OUTAGES ON ARIZONA PUBLIC
SERVICE COMPANY'S CUSTOMERS

Docket No. E-01345A-05-0826

Arizona Corporation Commission

DOCKETED

MAY 15 2007

DOCKETED BY

IN THE MATTER OF THE AUDIT OF
THE FUEL AND PURCHASED POWER
PRACTICES AND COSTS OF THE
ARIZONA PUBLIC SERVICE COMPANY

Docket No. E-01345A-05-0827

The undersigned counsel, on behalf of the Intervener's in this docket collectively known
as the Solar Advocates, hereby offers its EXCEPTIONS to the Recommended Order issued April

1 27th, 2007, in the above referenced dockets pertaining to the Arizona Public Service Company
2 (APS).

3 We are very pleased that the Recommended Order and Decision in multiple instances
4 reinforces previous decisions including the final order adopting the Renewable Energy Standard
5 (RES) requirements, and specifically adopts those provisions in this case.
6

7 We have recently adopted requirements for renewables in our Decision adopting the
8 RES rules, and **we find that the record in this case supports a finding that the**
9 **requirement contained in the RES rules is appropriate for APS at this time.** (p. 94. See
10 also page 93, lines 4-6, page 140, lines 20-22, page 141, lines 1-4, and page 150, lines
11 13-15)

12 (Emphasis added)

13 Confirming and reinforcing the provisions of the RES will provide benefits for Arizona
14 ratepayers for years to come and should provide guiding principles for decisions in this case and
15 subsequent matters that address issues germane to the RES.
16

17
18 However, we believe that the Recommended Decision's directions regarding the APS
19 proposed pilot EPR-5 net metering Rate Schedule are in some instances inconsistent with the
20 final adoption of the RES Rules.
21

22
23 The RES will require APS to add significant amounts of new renewable distributed
24 generation in its service territory. In modifying the APS proposed pilot EPR-5 net metering rate
25 schedule as suggested by Staff, the Recommended Decision improves the tariff, but we remain
26 concerned that even the modified tariff will prevent efforts by APS, customers, and the solar
27
28

1 industry to achieve RES compliance. The terms of the tariff as modified clearly constitute a
2 barrier to even the initial RES requirements if the aggregate cap of less than 20 Megawatts is
3 not eliminated, or at least raised to the RES requirement.
4

5
6 We thus believe that the recommendations pertaining to the net metering tariff
7 discussed below are not supported by testimony in the above captioned Dockets, are based on
8 rationale that is inconsistently applied, will prevent achievement of the RES requirements, are
9 more restrictive than what has been demonstrated to be necessary for success in other states,
10 and will cost Arizona's ratepayers significantly more than necessary in attempting to achieve
11 the RES goals.
12

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14
15 We believe that prudent policymaking requires that mandates be complemented by the
16 necessary policies and regulations that will enable success. In the case of the RES and
17 distributed generation, that means a sufficient net metering policy that eliminates barriers.
18

19 Therefore, we request that the Commission modify the proposed pilot EPR-5 in order:

- 20
- 21 • to allow true net metering for RES-qualifying distributed generation facilities
 - 22 • that the systems qualifying for net metering include those up to 2 MW in size,
 - 23 • that the cap on aggregate generation be raised to an amount commensurate with the
24 RES requirement, and finally,
 - 25 • to clarify that the requirement that 'lost revenue recovery' shall be limited as provided
26 in the Recommended Decision, and to explicitly adopt the principles contained in the
27 RES regarding the identification and determination of any "net costs", and eliminate the
28

1 apparent requirement that such net cost recovery come from funds dedicated to
2 supporting the actual net cost of renewable energy incentives.

- 3 • To ensure that whether or not the “pilot” nomenclature for the tariff is retained, the
4 Commission that has determined that this tariff is intended to remain in effect until a
5 substitute is approved by the Commission, which will likely be to comply with the RES
6 rules.
7

8
9
10 Our recommended changes to the tariff, building on the suggestions of staff
11 incorporated in the Recommended Decision, would then reach comparability with the approach
12 taken by every other state that has developed a robust solar energy program.
13

14 15 **Clarification of Recommended Decision’s Treatment of Lost Revenues**

16 We believe that the Recommended Decision has significantly improved the proposed
17 Pilot EPR-5, but that certain issues remain problematic. The following quote from the
18 Recommended Decision, pages 87-88 (footnotes omitted) deals with lost revenues, and the
19 Recommended Decision’s direction on these issues:
20

21 “The Solar Advocates strongly opposes recovery of “lost revenues” as a result of a net
22 metering tariff, and recommended increasing the cap on individual system size to 2
23 MW. Solar Advocates argue that no other state has allowed such recovery using the
24 proposed mechanism; APS’ calculation has only considered the cost, and none of the
25 system benefits; that APS has failed to establish any credible grounds for recovery of the
26 “so-called lost revenues;” and that the recent Commission Decision adopting the RES
27 rules specifies clearly the methodology that is to be used to calculate any cost recovery
28 and APS has not complied with the requirements of that rule.

1 "Staff recommended approving the EPR-5 with the following modifications:

- 2 1) Staff would not require a bidirectional meter;
- 3 2) Staff recommends that the facility size limit be increased to 100 kW;
- 4 3) Customer participation should not be limited by rate schedule;
- 5 4) The schedule should be modified to indicate that all changes to the schedule
- 6 will require Commission approval; and
- 7 5) APS should be required to clarify the tariff to indicate that ratepayers will be
- 8 responsible for the cost of the meter.

9 "Staff's witness recommended that APS be permitted to recover revenue loss associated

10 with its proposed net metering tariff, but disagreed with APS' proposal for measuring

11 revenue loss. **Staff believes that the revenue loss is the difference between the retail**

12 **rate and APS' avoided cost, and that the proposed lost revenue should apply only to**

13 **excess generation, not to total capacity. Further, Staff recommended that actual retail**

14 **rates should be applied, not annual average; that avoided costs should reflect**

15 **seasonal on-peak and off-peak rates; and that all metered rates schedules should be**

16 **eligible, not just those proposed by APS.**

17 (emphasis added)

18 "APS did not agree with Staffs recommendations, stating that the Company's proposal

19 was an attempt to strike a delicate balance between providing incentives to promote

20 distributed renewable resources and the amount of the incentive being paid for by

21 others who are not participants in the program. APS believes that Staffs position would

22 upset the balance and provide an even greater subsidy to program participants. APS

23 argues that the 10 kW cap on the generator size is appropriate for net metering, "even

24 in light of an expanded RES program because the Company already offers net billing rate

25 options for distributed generation systems up to 100 kW, which do not have any cap on

26 aggregate participation." (APS Exhibit No. 38, DeLizio Direct, p. 13) **However, as clearly**

27 **pointed out by the Solar Advocates, APS customers do not find those net billing**

28 **options a substitute for net metering. We agree with Staff's recommendations and**

1 will adopt them, however, we believe that APS should be able to require the use of a
2 bidirectional meter. APS should file its revised tariff consistent with this Decision within
3 30 days of the effective date of this Decision. This is a pilot program and we expect APS
4 to provide clear, quantifiable and verifiable information using actual results as to what
5 are, if any, the net costs (after calculating all benefits) of net metering.⁵⁴ We further
6 note that this tariff is not being filed pursuant to the RES rules, and that APS will be
7 required to comply with the RES rules when they become effective.”

8 (Emphasis added)

9
10 As highlighted above, the Recommended Decision has thus significantly improved the
11 proposal by APS regarding lost revenue recovery, if any. Furthermore, Solar Advocates believe
12 the Recommended Decision clearly establishes that in order for any lost revenues associated
13 with net metering to be recoverable,

14
15 “we expect APS to provide clear, quantifiable and verifiable information using actual
16 results as to what are, if any, the net costs (after calculating all benefits) of net
17 metering.”

18 With respect to the recovery of lost revenues, which are clearly (to us) an element of the actual
19 net costs of net metering, as described in the Recommended Order, Solar Advocates suggests
20 that with respect to the recovery of such costs, the detailed methods provided for in the RES
21 might usefully be incorporated into the direction for implementation of this order. Thus we
22 suggest language such as “*provide clear, quantifiable and verifiable information using actual*
23 *results as to what are, if any, the net costs (after calculating all benefits) of net metering, and*
24 *where necessary or useful looking to the provisions of RES (not yet in force) for the details in*
25 *determination.*”
26
27
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1 These suggestions are strengthened by the survey of the 38 states that have net
2 metering policies, supplemented by a good-faith inquiry of experts in the field, in which we
3 were unable to discover a single other instance of a utility using funds dedicated to supporting
4 renewable energy to compensate it for potential future 'lost revenues' associated with net
5 metering. APS has made no showing that there is something special about APS's circumstances
6 that makes it uniquely incapable of establishing a net metering policy without raiding funds
7 dedicated to renewable energy.
8

9
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11 **Consistency with principles adopted in the RES rulemaking**

12 The suggestion above is further supported by the fact that the same general issue -
13 recovery of so-called "lost revenues" - has already been decided in a clearly analogous decision
14 of the Commission. In the course of the RES rulemaking, APS challenged the proposed
15 definition, arguing that "under the proposed definition, Net Metering would result in
16 Distributed Generation customers not paying their proportionate share of fixed costs
17 associated with providing electric service that are non-bypassable costs recovered through
18 APS's current rate schedules on a metered kWh basis including generation, transmission and
19 ancillary services, delivery, system benefits charges, environmental benefits surcharges,
20 competition rules compliance surcharges, and regulatory assessment charges" (Decision No
21 69127, Appendix B, page 2, lines 13-19).
22
23
24

25
26 The RES decision explicitly rejected this assertion, saying "We agree with the VSI
27 statement that Net Metering is an important part of the regulatory infrastructure for
28

1 distributed generation, and disagree with APS' assertion that the terms of the definition go
2 beyond what is necessary to define the term" (Decision No 69127, Appendix B, page 6, lines 8-
3 10). Since the Recommended Order in the portion first quoted generally adopts the RES
4 requirement in this APS proceeding, the alignment of the two orders should be strengthened.
5

6
7 **No basis for a 100 kW cap on net metering.**

8 The only aspect of the Recommended Order with which Solar Advocates clearly
9 disagrees with Staff, relates to their suggestion that qualifying facility size be limited to 100 kW.
10 The only testimony that Staff provided for why 100 kW is the "right" size is as follows: "Staff
11 recommends that the limit on facility size be increased to 100 kW. This would allow large
12 projects to participate, while continuing to not allow a few projects to consume all the funds"
13 (Direct testimony of Barbara Keene, August 18, 2006, page 7).
14
15

16
17 This is an appropriate goal, but must be balanced against its costs, and the experience of
18 other states as provided during the Hearing. The funds Ms. Keene refers to, appear to be APS's
19 compensation for lost revenues (from the context, though that is not explicitly stated). We
20 believe that this is an insufficient basis for using the artificially low 100 kW as the limit to
21 systems qualifying for the net metering tariff.
22
23

24
25 That the proposed 100kw limit will create a needless barrier is supported by the fact
26 that there are several better ways of addressing Ms. Keene's valid concern about a few projects
27 consuming all the funds. In fact they have already been adopted in the RES Decision. For
28

1 example, the RES rule requires that half the Distributed Renewable Energy Requirement come
2 from residential applications and half from non-residential, non-utility applications (R14-2-
3 1805.D). This provides certain protection to ensure that a few large systems will not overly
4 dominate the available funds. Note also that the Solar Advocates provided voluminous and
5 unrebutted testimony to the point that larger systems are cheaper on a \$/kwh basis. Solar
6 Advocates remains concerned that a 100 kW cap does not establish the necessary conditions
7 for the most efficient use of ratepayer funds, and will provide an effective barrier to
8 commercial installations found in other states with far less solar resource than Arizona.
9
10

11 **Deviation from best practices in other states**

12
13
14 The Solar Advocates provided unchallenged testimony to the effect that every state that
15 is successfully developing a renewable distributed generation industry has also established a
16 net metering policy significantly higher than the 100 kW proposed by the Recommended Order.
17 The states of New Jersey, Pennsylvania, and Colorado all have ambitious renewable distributed
18 generation mandates, and all have net metering policies that cap system sizes at 2 MW, with no
19 cap on total aggregate generation. California, with the most distributed generation facilities of
20 any state in the country, allows net metering up to 1 MW system size, finding it in the public
21 interest to raise the cap to 2.5% of total system peak demand¹ in 2006. Since the initial Solar
22 Advocates testimony on the matter, the New Mexico Public Regulatory Commission approved a
23
24

25 ¹ From DSIRE Web Database: "Legislation enacted in 2006 (SB 1) increased the aggregate limit of net-
26 metered systems in a utility's service territory from 0.5% to 2.5% of the utility's aggregate customer peak demand.
27 (Previously, both SDG&E and PG&E were rapidly approaching their 0.5% limits.)"

28 "http://www.dsireusa.org/library/includes/incentive2.cfm?Incentive_Code=CA02R&state=CA&CurrentPageID=1

1 net metering policy that would allow system sizes up to 80 MW. And in April the Maryland
2 legislature passed an expansion of the state's renewable portfolio standard to require 1,400
3 MW of distributed solar generation —and at the same time established a 2 MW net metering
4 standard². Delaware is proposing to follow suit³. No other state uses funds dedicated to
5 supporting renewables to compensate utilities for lost revenues. Arizona risks becoming the
6 only state in the nation that has set a strong renewable distributed generation mandate while
7 effectively and simultaneously also establishing barriers to the successful achievement of the
8 mandate objectives.
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12 **Proposed Limitation on the Size Of Allowed Facilities Is Counterproductive And Unreasonable**

13
14 In our testimony, the Solar Advocates provided unrebutted testimony to the fact that
15 larger installations are cheaper, and therefore make more efficient use of ratepayer funds. We
16 note that California, with the country's largest solar market and a net metering standard of 1
17 MW, there are about 500 installations over 100 kW, and counting. While not all of those
18 facilities need to export, it should be noted that a net metering policy does more than allow for
19 credit for excess generation—it also provides safe harbor from unreasonable or unnecessary
20 fees and a tariff construct for larger customers to install large on-site renewable generation
21 systems. From the definition in the RES: "The Affected Utility does not charge the customer-
22 generator any additional fees or impose any equipment or other requirements unless the same
23
24

25 ² Chapter 120, 2007 Laws of Maryland, Approved by the Governor April 24, 2007.

26 ³ See Delaware 144th General Assembly, Senate Bill # 8,
27 (<http://www.legis.state.de.us/LIS/LIS144.NSF/vwLegislation/SB+8?Opendocument>)
28

1 is imposed on customers in the same rate class that the customer-generator would qualify for if
 2 the customer-generator did not have generation equipment” (Decision 69127, Appendix A,
 3 page 4, lines 10-13). Arizona, with its preponderance of flat-roof architecture, has a significant
 4 untapped economic resource in the many sites perfect for solar systems above 100 kW in size.
 5 Public buildings are particularly good candidates. For example, the City of Tucson (which is
 6 obviously not affected by this rate case, but the example is illustrative) has applied for Clean
 7 Renewable Energy Bonds (CREB—established by the Energy Policy Act of 2005) funding for
 8 seven solar systems. Each is above 100 kW in size, and each could take advantage of net
 9 metering.
 10
 11
 12

Site Name	Address	PV Output (kWdc)
El Pueblo Activity Center (Bldg. 9)	101 W. Irvington	154
Sweetwater Reclaimed Plant	2550 W. Sweetwater	165
Information Technologies (IT)	481 W. Paseo Redondo	175
El Rio Center	1390 W. Speedway	175
Parks Store	850 S. Randolph	196
Hayden-Udall CAP Plant	4401 S. Tucson Estates Parkway	196
Public Safety Training Academy	10001 S. Wilmot	211

1 Each of these proposed installations has a willing facility manager and financing in place—the
2 only barrier preventing a more sustainable and self-sufficient Tucson is consistent and effective
3 net metering policy that would allow these systems to be installed.
4

5 In sum, we believe that the recommendations addressed herein regarding the proposed
6 pilot EPR-5 net metering Rate Schedule are not supported by testimony elicited in these
7 Dockets, are based on rationale that is inconsistently applied, are not supported by experience
8 in other states, and will seriously harm the potential for the RES to succeed.
9
10

11 We request that the Commission modify the recommended Decision and Order filed in
12 DOCKET NO . E-01345A-06-0816 ET AL, to allow net metering for RES-qualifying distributed
13 generation facilities up to 2 MW in size, with a cap on aggregate generation commensurate
14 with the RES requirement, clarify the decision in confirming the inability of APS to terminate the
15 tariff as a pilot, and applying the RES rule approach to determining recoverable net costs, if any,
16 and remove the requirement that 'lost revenue recovery' come from funds dedicated to
17 supporting the actual net costs of renewable energy incentives.
18
19

20 DATED this 11th day of May, 2007
21

22 Respectfully Submitted,
23 Solar Advocates
24

25 By _____
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CERTIFICATE OF SERVICE

DOCKET NO. E-01345A-05-0816 et al

I hereby certify that on this, the 14th day of May 2007, an original copy plus ten (10) copies as directed by the Notice of Issuance of Recommended Decision & Order dated April 27th, 2007, of the SOLAR ADVACATES' EXCEPTIONS to the Recommended Decision & Order was sent by Federal Express for AM Next Day Deliver to the Arizona Public Utilities Commission at 1200 West Washington Street Phoenix Arizona, 85007-2927, and that on Monday, May 14th, a copy of of the foregoing EXCEPTIONS to the Recommended Decision & Order will be served via mail or electronic means on:

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