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Arizona Corporation Commission
Docket Control
1200 W. Washington
Phoenix, Arizona 85007

Re: Docket No. E-01345A-07, Arizona Public Service
-0468

To Whom It May Concern:

Enclosed please find an original and 13 copies of the Comments of SOLID Energy, Inc. in the above-referenced docket.

Sincerely,

Lori A. Glover

cc: Ray Williamson

Enclosure

Arizona Corporation Commission
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Mike Gleason, Chairman
William A. Mundell
Jeff Hatch-Miller
Kristin K. Mayes
Gary Pierce

IN THE MATTER OF THE	)	Docket No. E-01345A-07
APPLICAION OF ARIZONA PUBLIC)	
SERVICE COMPANY FOR APPROVAL	)	REQUEST FOR APPROVAL OF
OF RENEWABLE ENERGY STANDARD	)	RES IMPLEMENTATION PLAN
IMPLEMENTATION PLAN,	)	AND DISTRIBUTED ENERGY
DISTRIBUTED ENERGY	)	ADMINISTRATION PLAN:
ADMINISTRATION PLAN, CUSTOMER	)	REQUEST FOR APPROVAL OF
SELF-DIRECT RENEWABLE	)	CUSTOMER SELF-DIRECT
RESOURCE TARIFF, AND RESET OF	)	RENEWABLE RESOUCE TARIFF
RENEWABLE ENERGY ADJUSTOR	)	AND REQUEST FOR RESET OF
	)	RENEWABLE ENERGY
	)	ADJUSTOR
)	
	)	AND REQUEST FOR
	)	CONSOLIDATION

COMMENTS OF SOLID ENERGY, INC.

INTRODUCTION

These comments are submitted by SOLID U.S.A., Inc. (dba SOLID Energy, Inc., hereinafter "SOLID"). SOLID is an Arizona renewable energy company which has participated actively in the Renewable Energy Standard and Tariff ("RES") process and which had a representative sit on the Commission's Uniform Credit Purchase Program Working Group ("Working Group.")

We applaud APS for prompt filing of its Implementation Plan and for adoption of work performed by the Working Group. Nonetheless, SOLID wishes to address some issues that we believe are either unclear, that differ from the Working Group conclusions, or which the Working Group did not address but that SOLID believes should be addressed.

Discussion

A. Summary Issues

1. Natural Gas Displacement

In a section entitled Natural Gas Displacement – Partial Variance beginning on page 4 of its filing, APS addresses a partial variance granted to it under the Environmental Portfolio Standard (“EPS”). APS notes, under the EPS, renewable resources had to displace electricity and not natural gas in order to count towards the utility’s renewable requirement. In this context, the Partial Variance being referenced allowed APS to count a certain amount of distributed renewable resources that displaced natural gas, and not electricity, towards its requirement.

APS contends that the “RES Rules are silent regarding a requirement that solar energy must replace or supplement the use of electricity” and that, therefore, solar energy that displaces natural gas can be counted towards its RES requirement if the Partial Variance under the EPS has been superseded by the RES Rules. SOLID strongly supports the APS request for the Commission to clarify that the Partial Variance is superseded by the RES.

SOLID does not agree that the RES is silent in this regard, but believes that one of the drivers in revising the EPS was to add numerous distributed renewable thermal resources that displace natural gas to the portfolio of resources from which the Affected Utilities can draw in order to meet their requirements. In fact, the RES acknowledges this goal in its definition of “**Distributed Renewable Energy Resources**” as those that “**displace Conventional Energy Resources that would otherwise be used to provide electricity to Arizona customers**” [such as with a natural gas driven power plant]. R14-2-1802(B) and R14-2-1801(3). Amongst those Distributed Renewable Energy Resources are various types of solar thermal technologies. Therefore, SOLID requests that the Commission clarify that no limit on distributed natural gas displacement exists under the RES, and that this clarification apply to plans filed by all Affected Utilities moving forward.

2. EPS Superseded

APS requests a clarification that the RES rules supersede the EPS rules in a section of its filing entitled the same beginning on page 5. As discussed above and for the reasons stated by APS, SOLID agrees with the request for clarification by the Commission that the EPS has been superseded. Further, SOLID requests that this clarification be made regarding all Affected Utilities.

3. Cost of Program

Other filings address questions regarding the projected cost of the program. SOLID has concerns, but is unable to draw appropriate conclusions due to redactions in the filing. APS has offered to meet with SOLID to discuss these concerns.

B. Items Specific to the Distributed Energy Implementation Plan

The items addressed below all refer to Attachment B, the APS proposed "2007 Distributed Energy Administration Plan."

1. APS Role

In its Overview, APS states that "it has indicated that it does not plan to install distributed resources at customer properties, but rather the installation of DE systems will be facilitated by providing customers with financial incentives for the installation of those resources." SOLID has concerns about this statement relating to the implication that APS may modify its intent and choose to install distributed resources in the future. SOLID believes that such action by APS, or any Affected Utility, would be contrary to the intent of the distributed energy portion of the RES.

In the initial Staff Report regarding EPS revisions, issued January 21, 2005, Staff begins discussion of a distributed energy requirement and a uniform credit purchase program ("UCPP"), as suggested by industry in the AriSEIA proposed entitled "How Arizonans Can Help Achieve the Goals of the Environmental Portfolio Standard: A Proposal for a Uniform EPS Credit Purchase Program." The proposal itself referred to "customer-sited, customer-owned" projects that would be incentivized under a UCPP. This language was carried through various versions of the RES, and, although modified and altered to allow ownership by third parties, utility ownership was never contemplated.

In a follow-up Staff Report dated February 3, 2006, in its discussion of the concept of a DE set-aside, Staff uses the term "non-utility owned applications." In fact, the RES adopted this language in Section 1805 D by ordering that "[a]n Affected Utility shall meet one-half of its annual Distributed Renewable Energy Requirement from residential applications and the remaining on-half from non-residential, *non-utility* applications." Although the phrase "non-utility" was not inserted before the word residential, SOLID believes that the intent was to do so.

SOLID requests clarification from the Commission that APS (or any Affected Utility) may not receive incentives nor install projects under the DE portion of the RES.

2. DE Review Panel

Another critical issue in the filing is the form of the APS proposal for creation of a DE Review Panel (Panel), a proposal similar to what the UCPP Working Group has proposed, which we believe Staff supports, and which this Coalition supports. SOLID

believes that such a Panel can assist in the smooth operation of the distributed energy program. In others States, similar programs have been unduly bogged down by lack of a mechanism for timely modification of the incentive program.

Nonetheless, the structure of the APS proposed Panel is somewhat different than that proposed by the UCPP Working Group. The Working Group proposed a seven member panel consisting of representatives from the utilities, industry and Staff. APS is proposing a five member Panel to address APS issues only. At first glance, the composition of the proposed Panel appears favorable to industry; however, under the proposal a unanimous vote would be required to effect changes. In the Working Group proposal, a majority vote would be required. The effect of this modification would be APS to **always** cast the deciding vote. SOLID opposes this approach as being contract to the intent of the Working Group and as something that could have an adverse effect on the program.

3. Credit Purchase Agreement

As part of the distributed incentive program, APS requires that a credit purchase agreement be executed outlining the rights and responsibilities related to the renewable energy credits (RECs). APS references the "Credit Purchase Agreement" (CPA) on page 4 of Attachment B.

Although APS has been open to industry suggestion regarding the proposed form of CPA, the final version is not yet available. Therefore, if SOLID determines that the CPA has issues, either with respect to uniformity with the RES or simple workability in a distributed energy context, a follow-up letter will be filed with Staff regarding these issues, issues that are not discussed as part of the APS RES filing. SOLID, as discussed further below, requests that the Commission order Staff to develop a pro forma CPA as part of a phase II of the UCPP Working Group process. SOLID believes this document to be critical to the successful functioning of the non-residential portion of the program and is concerned that it will discourage or prevent third party financing availability.

For purposes of this filing, SOLID will address the only two issues related to the CPA that are referenced by APS in its filing.

Contractor Qualification

APS indicates that "[a]ll parties to a Credit Purchase Agreement who are not the program Participant must provide proof of ability to fulfill their obligations associated with the project. Such proof is to be determined at the **sole** discretion of APS and may include financial statements, business licenses, and/or proof of insurance" (emphasis added). Although SOLID understands that APS has a certain oversight role in insuring that projects provide the expected RECs, we have some concerns about overreaching on behalf of APS. This statement would appear to place APS in the position of "picking the winners" in the competition among vendors to supply program Participants. For example, APS is requiring that only third parties provide certain information regarding

their ability to fulfill the CPA obligations. SOLID questions why such requirement should not be equally applied to APS customers. In addition, although APS certainly should be able to request information that required by the plan, such as proof of insurance, SOLID is concerned about the potential requirement to share financial statements and other requirements under "proof to be determined at the sole discretion of APS".

Certain individuals in the Working Group proposed having predetermined qualifications for vendors such as a requirement that a vendor of a given technology submit proof of successful installation of previous systems to help insure that the vendor had the ability to fulfill their obligations. This approach was opposed by certain Group members including APS and was not included. Nonetheless, SOLID believes that this would be a much more acceptable approach.

Participant Delinquency

In Section 4 of the proposed Plan, APS for the first time adds a concept to the distributed energy program that was not discussed with the UCPP Working Group. APS proposes that it will not issue payments under the REC Credit Purchase Agreement if the Participant is delinquent in its electric bill. SOLID raises this in conjunction with third party financing, where the Participant does not own the system but the system is owned by a third party owner. In such a case, there is no justification to withhold payment. We are concerned that such a provision will prevent the obtaining of financing for these projects, a situation which would create a huge constraint for developers. *As discussed at the beginning of this section, SOLID is concerned that the proposed CPA will hinder the non-residential portion of the program. The proposed sixteen-page CPA may certainly do so, both by its length and some provisions that could be seen as overreaching and unacceptable to either APS customers or third party finance entities.*

SOLID is requesting that a pro forma contract be developed as part of a Phase II of the Working Group.

4. Allocation Method

The UCPP Working Group spent much of its time determining how distributed funds should be allocated, with a goal of trying to minimize program costs. SOLID has concerns regarding the method chosen for non-residential funds due primarily to its complexity and unwieldiness. Although we hope the systems works as planned, there was a significant minority opposing the proposed method and SOLID submitted a minority report on this issue.

One element of the proposed allocation method is a 'ranking calculator,' a version of which APS has submitted. SOLID believes that the calculator lacks sufficient clarity at this time. Bids will be submitted to APS and, due to confidentiality issues, will be evaluated using the calculator by APS alone. Bidders may not understand how to bid and

projects may be rejected without clear reasons. This process will not lead to a simple and transparent program that the Commission requires for the UCPP.

We urge Staff to carefully monitor the program as it goes forward to insure its effectiveness. SOLID proposes also that the UCPP Working Group should review the effectiveness of the allocation method during it Phase II.

5. Incentive Cap for Dealers and Manufacturers

In Section 6.4 of the proposed Plan, APS indicates that "dealer's and manufacturer's incentives" under PBI should be capped at 50%, versus 60% for applicants and that dealers and manufacturers are limited as to what costs can be included in calculating the cost basis. SOLID requests clarification that the 50% cap and limits on what can be included in the cost basis apply only to systems installed on buildings owned by a dealer or manufacturer.

6. Default

APS includes Section 6.9 on default. This is an issue that was neither discussed nor agreed to by the UCPP Working Group. SOLID believe that such provisions should be developed by the Working Group for the 2009 program.

Further, and more critical, SOLID asks for the following clarification: If the APS proposal is accepted, the proposed language should apply only to projects receiving a UFI incentive, not a PBI incentive. The reason for this request is that the proposed default provisions do not fit a PBI situation because they are partially phrased in terms of UFI and, with the mention of PV, are clearly aimed at UFI projects. For example, "[l]iquidated damages will apply if the Participant fails to maintain and operate the DE system for at least one year from the date that the Participant receives **the** incentive payment." The language references one payment only, as with UFI.

In addition, and possibly more importantly, the PBI process provides a self-correcting mechanism; i.e., if the system is not functioning, incentives payments will not be issued. Although SOLID believes that APS should have mechanisms to help in assuring that the DE program is successful, we are concerned that default discussions will lead to the institution of penalties that may/may not be appropriate. Such a penalties possibility has been suggested by the APS CPA that has been issued as part of the PBI portion of the program.

SOLID strongly believes that any potential default and/or penalty recommendations should be made by the UCPP Working Group as a whole. The State of Nevada rejected proposed penalties when it initiated its program in order to insure that the program encouraged entrance. APS and the other Affected Utilities have the ability to monitor the program in ways, such as random inspections, etc., to insure its success.

7. Market-Based Projects

On page 3 of Attachment B, APS proposes to include a category of “market-based projects” similar to that proposed by the UCPP Working Group. APS indicates that projects “involving more than one technology where an interrelated incentive was not developed” by the Working Group may participate in the category of market-based projects that is being proposed. We are unclear regarding the meaning of this statement. SOLID wants to insure appropriate process is given to these incentives to insure consistency with the remainder of the DE Plan. In addition, SOLID believes that such market-based projects should be approved under some type of objective approval standard and possibly be required to receive Staff or DE Panel approval. SOLID is concerned that certain of these projects could enter the arena and capture the vast majority of the distributed funds, a similar situation to what has occurred in another State.

8. UCPP Phase II

SOLID has noted various issues in this filing that were not addressed by the UCPP Working Group. In addition, the Working Group itself has raised some issues and, we believe, Staff will be recommending a Phase II. We request that a Phase II of the UCPP Working Group be ordered to order before the filing of the 2009 Plans. We would like to see the following, at a minimum, occur:

- a) Establishment of a ‘Pro-Forma’ CPA.
- b) Determination of treatment of non-PV, off-grid systems.
- c) Proposal for incorporation of performance-based concept into the UFI model.
- d) Default provisions established.
- e) Non-residential allocation method reviewed.

9. Unintentional Errors to be Corrected

The UCPP Working Group spent significant time developing a proposal to submit to the Utilities Division. Nonetheless, due to procedural considerations, the Working Group activities were suspended prior to adoption of a final document. In the final Working Group meeting recently, the Group agreed that the following technical errors should be corrected:

- a) In Section 4.2, “Installation and Equipment Specifications,” Subsections 4.2.5 and 4.2.6 address non-residential solar thermal projects. Subsection 4.2.5 should read “Non-Residential Solar Space and Process Cooling” and Subsection 4.2.6 should read “Non-residential Solar Water Heating, Space Heating, and Process Heating.”
- b) The “Installation Guidance” for the above Subsections should read –
 - The horizontal tilt angle of the collector panels should be appropriate under industry standards to maximize energy production.

- All systems should be installed such that the energy collection system is substantially un-shaded.

CONCLUSION

SOLID appreciates the opportunity to submit these comments on the APS Implementation Plan and on issues that apply to other Affected Utilities in effecting the RES. The company looks forward to continuing to work with the Commission in achieving a successful RES program and contributing to meeting Arizona's renewable energy goals.

Submitted by,



Lori A. Glover
November 12, 2007

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