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Arizona Corporation Commission  
**DOCKETED**

July 27, 1999

JUL 28 1999

VIA FEDERAL EXPRESS

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007-2996

DOCKETED BY *g.d.*

Re: Docket No. E-00000A-99-0205

Dear Docket Control:

Enclosed for filing is an original and ten (10) copies of the Comments of the Center for Energy and Economic Development ("CEED").

In addition, we have enclosed an additional copy of CEED's Comments to be stamped "filed" and returned to us in the self-addressed envelope we have provided.

Thank you.

Sincerely,

Daneé Gaines

cc: Service list

ORIGINAL

STATE OF ARIZONA  
ARIZONA CORPORATION COMMISSION

RECEIVED  
AZ CORP COMMISSION

JUL 28 1 17 PM '99

RE: THE GENERIC INVESTIGATION OF THE )  
DEVELOPMENT OF A RENEWABLE )  
PORTFOLIO STANDARD AS A PORTION )  
OF THE RETAIL ELECTRIC COMPETITION )  
RULES )

DOCKET NO. U-0000A-99-0205

DOCUMENT CONTROL

COMMENTS OF THE CENTER FOR  
ENERGY AND ECONOMIC DEVELOPMENT

The Center for Energy and Economic Development (CEED) submits the following responses to the questions set forth in the June 16, 1999 Procedural Order in the above-referenced docket. Because CEED opposes the proposed Environmental Portfolio Standard (EPS) in its entirety, CEED's comments do not address the questions dealing with the mechanics of the standard.

Question 1.A: Should there be an Environmental Portfolio Standard in Arizona and Why?

There should not be an EPS in Arizona. An EPS would conflict with the purpose of electric deregulation, which is to allow consumers the right to choose their own electric supplies. Deregulation proceeds from the premise that consumers are benefitted when the market rather than the government controls the provision of electricity. The EPS proceeds from exactly the opposite premise, that the government knows better than the market how electricity should be supplied. The two presumptions are incompatible. Having determined that competition is the best policy for the electric industry, the Commission should not undermine that policy by imposing the EPS.

It is incumbent on the proponents of the EPS to make the case for its adoption. That case has yet to be made despite years of consideration of electric restructuring and various proposals for portfolio standards in Arizona.

It has been argued that a portfolio standard of some sort is necessary to protect the environment. But CEED has shown in previous comments that the nation and Arizona already have in place a comprehensive system of environmental laws and regulations.<sup>1</sup> Concerns as to the environment should be addressed to environmental regulators, not an economic regulator such as this Commission. Moreover, the amount of electric generation that would be subject to the standard would be so minuscule as to produce unnoticeable environmental benefits.

It has also been argued that a portfolio standard is necessary to promote resource diversity. But again, because the amount of generation subject to the standard would be so small, the diversity benefits would be insignificant.

The cost of the EPS, even given the small amount of electric generation subject to it, could be enormous. The Commission previously rejected a solar portfolio standard on the ground of too much cost for too little benefit. CEED is unaware of any analysis that has been done as to the cost of the EPS. However, there is no reason to suppose that the EPS would be materially less costly than the solar portfolio standard. In contrast to the solar portfolio standard, the EPS would allow an electric supplier to meet up to 10% of the portfolio requirement by supplying other "environmentally-friendly renewable electricity

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<sup>1</sup> See CEED's June 27, 1996 comments in Docket No. U-0000-94-165.

technologies;" to meet up to 20% of the portfolio requirement by subsidizing solar water heaters; and to meet part of the portfolio requirement by investing in solar electric manufacturing plants in Arizona. These technologies all bear costs that are significantly above-market as compared with competing technologies; otherwise they would not require the government mandate set forth in the EPS.

Arizona successfully avoided the types of PURPA excesses that led California to invest in renewable resources that now cost \$.10 to \$.20 per kilowatt-hour and which created concomitant stranded cost problems. Arizona should not now make a similar mistake in investing ratepayer money in high cost renewables. The EPS should be rejected in its entirety.

Question 5.B. Instead of Implementing a Standard as part of the Retail Electric Competition Rules, should the market (the retail consumers themselves) dictate the amount of "green power" to include in competitive energy choices? Should the Commission encourage [sic] Energy Service Providers to offer programs, instead of mandating rigid targets, allowing the market for such products to develop naturally? (Emphasis in original.)

CEED endorses letting the market determine how much "green" power is sold to consumers. As a representative for coal-fired electricity, CEED believes that all electric sources should compete equally in the marketplace. If customers choose to purchase "green" power over conventional power, that is their choice.

In fact, "green" power marketing is having considerable success in customer choice states. In California, where according to recent statistics only a very small percentage of residential customers has switched from the incumbent utility to a new electric supplier, a

significant number of those switching have chosen a "green" marketer.<sup>2</sup> In Pennsylvania, a recent study has shown that, along with price, "green" power is the most significant selling point to residential customers.<sup>3</sup>

CEED does not believe, however, that the Commission should play a role in encouraging customers to choose "green" power. To the contrary, the Commission's role should be to police "green" power claims, to assure that such claims are not based on false or misleading information. CEED would endorse language in the final rules providing that "green" power marketers must be prepared to document the basis of any claims that their product is more beneficial to the environment than any other electric product. A number of states have adopted or are considering such requirements.

Question 6.a. New Section N allows for "environmentally friendly renewable technologies other than solar. What technologies should be included in this subsection? Would those technologies be available in Arizona or work in Arizona?"

In prior comments CEED has submitted a detailed study of renewable resource potential in the United States.<sup>4</sup> Arizona does not have commercially viable wind, geothermal or biomass resources.

Question 6.b. The proposed Portfolio Standard includes incentives for in-state manufacturing and in-state installation of solar and other environmentally-friendly technologies. Are those incentives appropriate and substantial enough to have a positive

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<sup>2</sup> California Renewable Energy Board, "How Emerging Green Markets Help Respond to Global Change," November 16, 1998.

<sup>3</sup> See study by Xenergy, Inc., reported in *Utility Environment Report*, March 12, 1999, p. 7.

<sup>4</sup> Resources Data International, "Energy Choices in a Competitive Era," appended to CEED's June 27, 1996 comments in Docket No. U-0000-94-165.

impact on Arizona's economy and on Arizona economic development? What alternatives would you propose and why?

The portions of the proposal dealing with in-state manufacturing and in-state installation of solar and other environmentally-friendly technologies are obvious violations of the Commerce Clause of the United States Constitution. The Commerce Clause forbids discrimination in favor of in-state products.<sup>5</sup>

In sum, CEED urges the Commission to reject the EPS.

Dated: July 29, 1999

Respectfully submitted,

Terry Ross  
West Region Vice-President  
Center for Energy and Economic Development

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<sup>5</sup> E.g., *Oklahoma Tax Comm'n v. Jefferson Lines, Inc.*, 514 U.S. 175 (1995).

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing COMMENTS OF THE CENTER FOR ENERGY AND ECONOMIC DEVELOPMENT, in Docket No. E-0000A-99-0205, was served via first class mail, this 27<sup>th</sup> day of July, 1999 to each person on the attached service list.

A handwritten signature in cursive script, reading "Daneé Gaines", written over a horizontal line.

Daneé Gaines  
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