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EXCEPTION

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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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MAR 22 2000

CARL J. KUNASEK  
Chairman  
JIM IRVIN  
Commissioner  
WILLIAM A. MUNDELL  
Commissioner

DOCKETED BY

IN THE MATTER OF THE GENERIC  
INVESTIGATION OF THE  
DEVELOPMENT OF A RENEWABLE  
PORTFOLIO STANDARD AS A  
POTENTIAL PART OF THE RETAIL  
ELECTRIC COMPETITION RULES

DOCKET NO. E-00000A-99-0205

**EXCEPTIONS OF ARIZONA PUBLIC SERVICE COMPANY  
TO RECOMMENDED OPINION AND ORDER**

Pursuant to Ariz. Admin. Code R14-3-110 of the Rules of Practice and Procedure of the Arizona Corporation Commission ("Commission"), Arizona Public Service Company ("APS" or "Company") hereby submits its Exceptions to the Recommended Opinion and Order ("Recommended Order") of the Presiding Officer in the above-captioned matter. Such Recommended Order, although commendable in many respects, could be easily misconstrued to require APS shareholders to partially fund what is in effect a government mandate. While supporting the overwhelming majority of the Recommended Order, the Company will propose an amendment that will stress alternative non-ratepayer funding mechanisms and for-profit shareholder investment rather than the altruism of "Good Corporate Citizens."

**I. INTRODUCTION**

As noted in the Recommended Order, the idea of a renewable energy portfolio standard goes back to the original Electric Competition Rules (A.A.C. R14-2-1601, *et seq.*) in December

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1 of 1996. APS has consistently supported a significantly greater commitment to renewable energy  
2 but has opposed mandatory kWh “percent of sales” requirements and specific renewable  
3 technology “set asides” or quotas for the reasons described in the Recommended Order. The  
4 Company is encouraged to see that the Recommended Order has avoided both of these costly  
5 deficiencies in the Environmentally-Friendly Portfolio Standard (“EFPS”) as originally proposed.

6 APS also questioned claims that the Commission could, through the EFPS, materially  
7 affect the development, location, and employment practices of solar energy equipment  
8 manufacturers. The Recommended Order is appropriately silent on this point and instead  
9 emphasizes the environmental and resource diversity benefits of renewable resources regardless  
10 of their location or technology.

11 Finally, APS made a commitment to its customers and to this Commission that it would  
12 not seek higher rates until at least 2004. Indeed, the Company has agreed to a series of voluntary  
13 rate reductions in each of the years 1999-2003. For this reason, APS would not support any  
14 EFPS that threatened these commitments without the full support of those same commercial,  
15 industrial, residential and low-income consumer representatives with whom it had first entered  
16 into a settlement agreement in May 1999. To date, that support has not been forthcoming . The  
17 Recommended Order is rightly cognizant of this concern and directs that any increased renewable  
18 program be financed from presently available resources or from voluntary customer and  
19 shareholder contributions.

## 20 21 **II. SUMMARY OF APS’ POSITION**

22 APS has had and, under the Recommended Order, will continue to have the largest solar  
23 energy program in Arizona. At present, the Company has, with Staff’s approval, devoted  
24 virtually its entire \$3 million annual renewables expenditure to solar electric technologies. In this  
25 proceeding, APS offered to redirect an additional \$3 million per year from demand-side  
26 management programs to solar. Together with the programs of Tucson Electric Power Company

1 (“TEP”) and Salt River Project (“SRP”), this would result in more than a tripling of the funds  
2 devoted to renewable energy even if there were no incremental monies provided by either  
3 Citizens Utilities Company or any of the rural cooperatives. Moreover, APS, TEP, and SRP  
4 agreed to seek out government grants and support tax credit legislation that would further  
5 leverage these funds.

6 All this could be accomplished without any increase in rates, no diminution of scheduled  
7 rate decreases, and no deferrals of costs to be paid for by future ratepayers. In addition, APS  
8 proposed that the higher renewable energy expenditures begin in the year 2000 rather than in  
9 2001 as called for in the proposed EFPS.

10 To lessen the concerns of competitive electric service providers (“ESPs”), the Company  
11 suggested that ESP participation in the EFPS be voluntary, at least until 2004. To address some  
12 of the issues raised by solar electric equipment vendors, APS supported a postponement of the  
13 Commission’s review of the EFPS until 2003 and retention of escalating annual kWh “goals” to  
14 guide the Commission’s ongoing evaluation of the cost-effectiveness of the EFPS.

15 All of these APS positions are, it believes, consistent with the provisions of the  
16 Recommended Order. In addition, the Recommended Order has mandated that all Affected  
17 Utilities initiate a program of voluntary ratepayer payments for renewable energy such as the APS  
18 Solar Partners Program and has established a vehicle for giving public recognition to especially  
19 successful renewable energy programs through designation of an “EF Utility of the Year.” APS  
20 supports both these innovations.

21 As noted earlier, APS does take exception to the “Good Corporate Citizens” portion of the  
22 Recommended Order – not because it is opposed to corporations being good citizens, but because  
23 of the potential for abuse of this concept when the instigating party is the Company’s regulatory  
24 agency. In the next section, APS will explain first its concerns about this aspect of the  
25 Recommended Order and then propose what it believes is a constructive alternative.  
26

### III. "GOOD CORPORATE CITIZENS"

At pages 15 and 16, the Recommended Order discusses a "voluntary" program of shareholder contributions to the cause of renewable energy. APS believes that the intent of the Presiding Officer's recommendation was to suggest purely voluntary shareholder contributions. However, the specific language used in the Recommended Order, including a statement that the Commission believes it "appropriate" for shareholders to make such a contribution, a "Conclusion of Law" to that effect at page 22 of the Recommended Order, and a footnote indicating that "APS would need to provide an additional \$600,000 from its profits to support renewables," suggests that this discussion in the Recommended Order might be construed as something less than truly voluntary.

Certainly, APS believes in good corporate citizenship. It routinely makes "below-the-line" contributions to many worthy social causes. However, these causes are selected by APS management and are contributions for which APS management is responsible to shareholders. It is inappropriate and unlawful for the Commission to dictate the level and beneficiaries of the Company's corporate giving.

The Settlement Agreement approved by this Commission in Decision No. 61973 (October 6, 1999) clearly provided that APS would be permitted to defer for future recovery all System Benefit-related costs in excess of the roughly \$7 million then incorporated in rates. The same is true of costs incurred in complying with the Electric Competition Rules. If the Recommended Order's suggested "Good Corporate Citizenship" is just another required part of the EFPS, it is simply another form of government mandate covered by the terms of that Settlement and Decision. There is no legitimate basis for suggesting that shareholders now forego recovery of these additional "mandated" expenditures.

On the other hand, APS does not mean to suggest that all funding for renewable resources need come from customers. During this proceeding, solar energy equipment vendors and others

1 indicated that they were making a significant investment in solar technology independent of the  
2 EFPS. Some Commission encouragement for and recognition of similar efforts by Affected  
3 Utilities and ESPs would be appropriate. Also, the Recommended Order is silent about such non-  
4 ratepayer funding sources as government and private foundation grants, and the prospect of  
5 expanded tax credit programs that would permit corporate (and therefore utility) participation. In  
6 Section IV of its Exceptions, APS will propose an amendment to the Recommended Order that  
7 adopts these concepts in lieu of the “Good Corporate Citizens” language.  
8

9 **IV. APS PROPOSED AMENDMENT TO RECOMMENDED ORDER**

10 APS would ask the Commission to delete the following portions of the Recommended  
11 Order:

- 12 1. Page 15, line 23;
- 13 2. Page 16, lines 15-20;
- 14 3. Page 22, lines 4-6; and,
- 15 4. The words “good corporate citizens” from page 22, line 11.

16 In place of the deleted language, APS would substitute or add the following.

17 A. At page 15, line 23, substitute the bullet “Grants, Tax Credits and  
18 Below-the-Line Investment.”

19 B. At page 16, line 15 substitute the following section:

20 “Grants, Tax Credits and Below-the-Line Investment

21 Many of the parties to this proceeding have discussed the use of  
22 government and private foundation grants to leverage existing ratepayer  
23 sources of funding. The Commission believes that these should be  
24 actively pursued by Affected Utilities and others as a way of increasing  
25 their commitment to renewable energy without impacting rates. In  
26 addition, Affected Utilities should make sure their customers are aware of  
renewable energy tax credits presently made available to them as  
individuals by Arizona law. The Commission would further hope that the  
individual tax credit program in Arizona could be expanded to allow  
utilities and other corporations to participate and will support efforts to  
that effect.

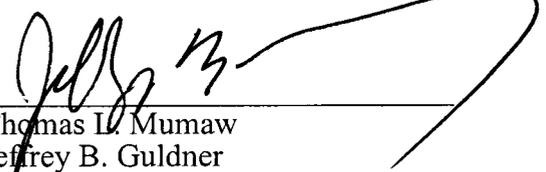


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renewable energy resources through redeployment of existing resources—altogether a more logical and sustainable approach than shareholder donations to renewable energy as if it were some sort of Commission-sponsored charity.

RESPECTFULLY SUBMITTED this 22nd day of March, 2000.

SNELL & WILMER L.L.P.

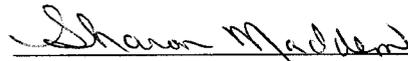
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CERTIFICATE OF SERVICE

The original and ten (10) copies of the foregoing document were filed with the Arizona Corporation Commission on this 22nd day of March, 2000, and service was completed by mailing or hand-delivering a copy of the foregoing document this 22nd day of March, 2000, to all parties of record herein.

  
SHARON MADDEN

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