

OPEN MEETING



0000090077

ORIGINAL

MEMORANDUM

Arizona Corporation Commission

DOCKETED

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TO: THE COMMISSION

2008 OCT 29 P 1:48

FROM: Utilities Division

OCT 29 2008

DATE: October 29, 2008

DOCKETED BY	<i>MD</i>
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AZ CORP COMMISSION
DOCKET CONTROL

RE: NAVOPACHE ELECTRIC COOPERATIVE, INC. - APPLICATION FOR APPROVAL OF RENEWABLE ENERGY STANDARD PLAN AND TARIFFS (DOCKET NO. E-01787A-07-0576)

On September 16, 2008, Navopache Electric Cooperative, Inc. ("NEC") filed a Renewable Energy Incentive Program ("REIP") pursuant to Decision No. 70305 of April 2008. The REIP is a component of a Renewable Energy Standard and Tariff ("REST") Implementation Plan that was ordered to be filed by October 1, 2008, pursuant to Decision No. 70305 (April 2008). The proposed REIP would help NEC meet requirements contained in Arizona Administrative Code ("A.A.C.") R14-2-1805 which establishes a Distributed Renewable Energy Requirement.

The Distributed Renewable Energy Requirement requires utilities to obtain Renewable Energy Credits from Distributed Renewable Energy Resources. Distributed Renewable Energy Resources are defined technologies that are located at a customer's premises and displace Conventional Energy Resources that would otherwise be used to provide electricity to Arizona customers. A.A.C. R14-2-1802 contains a list of eligible Distributed Renewable Energy Resources. They include specific forms of biogas, biomass, fuel cell, hydropower, solar and wind technologies.

The proposed REIP would pay NEC members \$3 per Watt of installed nameplate capacity of an acceptable renewable energy system on their premises. The payment incentive from NEC will be paid up to the lesser of either \$25,000 or 50 percent of the installed cost of each system. The payment incentive serves to reduce the total cost to customers for installing Distributed Renewable Energy Resources. While NEC provides a substantial incentive payment to customers, the customers will retain ownership of the system and will be responsible for the maintenance and cost of maintenance for their installed systems.

A description of the proposed program included in the application indicates that NEC does not have a net metering program and that customers participating in the program may opt to either receive a rebate or instead elect to be paid a wholesale rate for their electric generation output.

NEC has communicated to Staff that its proposed REIP program is modeled after the SunWatts Residential and Commercial Rebate program used by Sulphur Springs Valley Electric Cooperative, Inc. ("Sulphur").

Sulphur's Incentive Program Enrollment Form for its SunWatts Residential and Commercial Rebate program includes an attestation that participants understand that the cooperative will not buy from them any electric power generated by their solar/photovoltaic unit should they enroll in the incentive program.

Staff has reviewed Decision No. 70096 of December 2007 authorizing Sulphur's SunWatts Residential and Commercial Rebate program and finds no evidence that the Decision contemplated a condition where customers elect to either receive an incentive payment, or as an alternative, a payment for energy produced by customers.

Staff also reviewed Sulphur's application for approval of its REST plan and similarly found no evidence of a proposal for, or mention of, a condition where customers elect to either receive an incentive payment, or in the alternative, a payment for energy produced by customers.

In October 2008, the Commission ordered the adoption of Net Metering Rules proposed in a recommended order and opinion in Docket No. RE-00000A-07-0608. A decision number has not yet been assigned to the Decision. These rules, while adopted by the Commission, have not yet become effective.

The Net Metering Rules would cause net metered customers to be billed or credited based upon the rates applicable under the customer's currently effective standard rate schedule and any appropriate rider schedules.

In months in which the electricity generated by the Net Metering Customer exceeds the electricity supplied by the Electric Utility in the Billing Period, the Customer shall be credited during the next Billing Period for the excess kWh generated. That is, the excess kWh during the Billing Period will be used to reduce the kWh supplied and billed by the Electric Utility during the following Billing Period.

Once each calendar year the Electric Utility shall issue a check or billing credit to the Net Metering Customer for the balance of any credit due in excess of amounts owed by the Customer to the Electric Utility. The payment for any remaining credits shall be at the Electric Utility's avoided cost.

The Net Metering Rules adopted by the Commission define a net metering customer in A.A.C. R14-2-2302(12) as "any Arizona Customer who chooses to take electric service in the manner described in the definition of Net Metering..."

A.A.C. R14-2-2307(A) requires that "Each Electric Utility shall file, for approval by the Commission, a Net Metering tariff within 120 days from the effective date of these rules..." The Net Metering Rules make no provision for the exclusion of any customer having received an incentive payment from receiving energy payments under a net metering tariff.

Staff notes that while the Commission's approval of the Net Metering Rules requires further action such as endorsement by the Arizona Attorney General prior to effectiveness, it would not be in the public interest to approve Navopache's REIP program without appropriate modification so as to allow for the operation of the Net Metering Rules. It was never Staff's intention that a Net Metering customer under the Net Metering Rules be precluded from obtaining an incentive under the REST rules.

Staff recommends that NEC not require customers to elect to receive either an incentive payment or, as an alternative, energy payments and instead provide to customers participating in the REIP both credits and payments as contemplated in the Net Metering Rules. This recommendation will make NEC's REIP more compatible with the Net Metering Rules adopted by the Commission in October 2008.

The proposed REIP includes a number of requirements that help ensure that the installed Distributed Renewable Energy Resources will function adequately and will remain in service. The program requires that a licensed contractor install the system. The program requires that the systems meet The Institute of Electrical and Electronics Engineers, Inc. n/k/a IEEE standards, the National Electric Code, and NEC Interconnection standards. Each system must meet Federal, State, and local building codes and be successfully inspected by the building official having jurisdiction. Additionally, each system must be inspected by a representative of NEC to verify that installed units meet the qualifications of the program and that the system meets necessary code requirements.

The program includes refund obligations that require installed systems to remain in operation. The program requires that should a customer sell their home within one year after receiving the incentive payment, they make arrangements to have the new buyer continue to operate the system or alternatively reimburse NEC the total amount of the incentive payment. Following one year of receiving the incentive, customers selling their homes would be required to make arrangements to have the buyer agree to continue operation of the system. Should customers remove their systems they will be required to refund the incentive payment to NEC on a pro-rated basis depending on the amount of time the system has been in service. Following a year of operation NEC will require a 90 percent reimbursement of the incentive. Following two years of operation NEC will require an 80 percent reimbursement of the incentive. Calculation of the reimbursement of incentive requirement continues in a linear fashion with the reimbursement requirement expiring after ten years of operation of the system.

Staff notes that the description of the REIP informational form included in the application contains information that may be unclear to readers. The first sentence of the document states: "With the Renewable Energy Incentive Program, NEC will pay its members \$3 / watt (installed nameplate capacity) of an acceptable renewable energy technology* such as photovoltaic array or a wind turbine, up to 50% of the installed cost." The footnote corresponding to the single asterisk contained in the sentence is as follows: "* Those renewable energy technologies which qualify for inclusion in the Arizona Corporation Commission Renewable Energy Standard & Tariff." Taken together, these sentences explain that each technology included in A.A.C. R14-2-

1802 is eligible for the NEC REIP. The paragraph marked (1) on the REIP informational form contains the following sentence: "You select and have installed a qualifying solar electric system or wind turbine at your home or business." This sentence, taken in isolation, may appear to communicate that only solar and wind technologies are eligible for the program. In order to provide clarity in regard to eligible technologies, Staff recommends that the first sentence be changed to read: "You select and have installed a qualifying solar electric system, wind turbine, or other renewable energy technology at your home or business."

Staff also notes that the paragraph marked (7) on the REIP informational form states that should funding not be sufficient to provide all rebate requests, the rebates will be provided on a first-come, first-served basis based on the date of the Enrollment Form, as soon as funding is replenished through the Environmental Surcharge. While this policy is an equitable method of dealing with a shortfall in funding, it does not specifically state that the waiting list will extend from one program year to the next. The proposed policy also does not address requirements contained in A.A.C. R14-2-1805. A.A.C. R14-2-1805(D) requires that "An Affected Utility shall meet one-half of its annual Distributed Renewable Energy Requirement from residential applications and the remaining one-half from non-residential, non-utility applications." Should a first-come, first-served method be strictly applied without consideration for an equal kWh production from residential and non-residential Distributed Renewable Energy Requirement projects, the requirements of A.A.C. R14-2-1805(D) may not be satisfied.

In order to clarify the treatment of rebate requests that are unfunded at the end of a given program year and to include a provision that will assist in meeting the requirements of A.A.C. R14-2-1805(D), Staff recommends that NEC include the following information in the filed plan:

In the event that demand for non-residential funds exceeds a period allocation, NEC may provide reservations to those projects above the allocation depending on the current REST compliance status and availability of funding. In the event that funds collected for use in the Distributed Energy incentive program are not fully subscribed in a program year, those funds will be applied towards the next program year. The funds will be allocated to achieve the required energy outcome between residential and non-residential projects.

This language is a component of APS' REST that was approved in Decision No. 70313 of April 2008. NEC has communicated to Staff that it supports inclusion of such a provision in the NEC REIP. NEC may choose to adopt this language specifically, or alternatively, make an adjustment to paragraph (7) to adopt the substance of this language.

Staff recommends approval of the application, with the modifications described herein, in order to help NEC meet the requirements of A.A.C. R14-2-1805.

Staff further recommends that when filing future annual REST Implementation Plans pursuant to A.A.C. R14-2-1813, NEC include the REIP as a component of its Implementation Plan in order to provide a mechanism for the Commission to periodically evaluate the program

and make adjustments as necessary. This recommendation is meant to reduce uncertainty that could arise as a result of approval of the REIP program in this Decision rather than approving it within a Decision issued in response to the filing of an annual REST Implementation Plan. As the REIP is a component of the REST, it should hereafter be included in the annual REST Implementation Plan.

Staff further recommends that NEC amend its Renewable Energy Incentive Program literature and Enrollment Form consistent with this decision and in a form acceptable to Staff.



Ernest G. Johnson
Director
Utilities Division

for

EGJ:SPI:lhv\CH

ORIGINATOR: Steve Irvine

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BEFORE THE ARIZONA CORPORATION COMMISSION

MIKE GLEASON
Chairman
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
KRISTIN K. MAYES
Commissioner
GARY PIERCE
Commissioner

IN THE MATTER OF THE APPLICATION)
OF NAVOPACHE ELECTRIC)
COOPERATIVE, INC. FOR APPROVAL OF)
RENEWABLE ENERGY STANDARD)
PLAN AND TARIFFS)

DOCKET NO. E-01787A-07-0576
DECISION NO. _____
ORDER

Open Meeting
November 12 and 13, 2008
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Navopache Electric Cooperative, Inc. ("NEC") is certificated to provide electric service as a public service corporation in the State of Arizona.
2. On September 16, 2008, NEC filed a Renewable Energy Incentive Program ("REIP") pursuant to Decision No. 70305 of April 2008. The REIP is a component of a Renewable Energy Standard and Tariff ("REST") Implementation Plan that was ordered to be filed by October 1, 2008, pursuant to Decision No. 70305 (April 2008). The proposed REIP would help NEC meet requirements contained in Arizona Administrative Code ("A.A.C.") R14-2-1805 which establishes a Distributed Renewable Energy Requirement.
3. The Distributed Renewable Energy Requirement requires utilities to obtain Renewable Energy Credits from Distributed Renewable Energy Resources. Distributed Renewable Energy Resources are defined technologies that are located at a customer's premises

1 and displace Conventional Energy Resources that would otherwise be used to provide electricity to
2 Arizona customers. A.A.C. R14-2-1802 contains a list of eligible Distributed Renewable Energy
3 Resources. They include specific forms of biogas, biomass, fuel cell, hydropower, solar and wind
4 technologies.

5 4. The proposed REIP would pay NEC members \$3 per Watt of installed nameplate
6 capacity of an acceptable renewable energy system on their premises. The payment incentive from
7 NEC will be paid up to the lesser of either \$25,000 or 50 percent of the installed cost of each
8 system. The payment incentive serves to reduce the total cost to customers for installing
9 Distributed Renewable Energy Resources. While NEC provides a substantial incentive payment to
10 customers, the customers will retain ownership of the system and will be responsible for the
11 maintenance and cost of maintenance for their installed systems.

12 5. A description of the proposed program included in the application indicates that
13 NEC does not have a net metering program and that customers participating in the program may
14 opt to either receive a rebate or instead elect to be paid a wholesale rate for their electric generation
15 output.

16 6. NEC has communicated to Staff that its proposed REIP program is modeled after
17 the SunWatts Residential and Commercial Rebate program used by Sulphur Springs Valley
18 Electric Cooperative, Inc. ("Sulphur").

19 7. Sulphur's Incentive Program Enrollment Form for its SunWatts Residential and
20 Commercial Rebate program includes an attestation that participants understand that the
21 cooperative will not buy from them any electric power generated by their solar/photovoltaic unit
22 should they enroll in the incentive program.

23 8. Staff has reviewed Decision No. 70096 of December 2007 authorizing Sulphur's
24 SunWatts Residential and Commercial Rebate program and finds no evidence that the Decision
25 contemplated a condition where customers elect to either receive an incentive payment, or as an
26 alternative, a payment for energy produced by customers.

27 9. Staff also reviewed Sulphur's application for approval of its REST plan and
28 similarly found no evidence of a proposal for, or mention of, a condition where customers elect to

1 either receive an incentive payment, or in the alternative, a payment for energy produced by
2 customers.

3 10. In October 2008, the Commission ordered the adoption of Net Metering Rules
4 proposed in a recommended order and opinion in Docket No. RE-00000A-07-0608. A decision
5 number has not yet been assigned to the Decision.

6 11. These rules, while adopted by the Commission, have not yet become effective.

7 12. The Net Metering Rules would cause net metered customers to be billed or credited
8 based upon the rates applicable under the customer's currently effective standard rate schedule and
9 any appropriate rider schedules.

10 13. In months in which the electricity generated by the Net Metering Customer exceeds
11 the electricity supplied by the Electric Utility in the Billing Period, the Customer shall be credited
12 during the next Billing Period for the excess kWh generated. That is, the excess kWh during the
13 Billing Period will be used to reduce the kWh supplied and billed by the Electric Utility during the
14 following Billing Period.

15 14. Once each calendar year the Electric Utility shall issue a check or billing credit to
16 the Net Metering Customer for the balance of any credit due in excess of amounts owed by the
17 Customer to the Electric Utility. The payment for any remaining credits shall be at the Electric
18 Utility's avoided cost.

19 15. The Net Metering Rules adopted by the Commission define a net metering
20 customer in A.A.C. R14-2-2302(12) as "any Arizona Customer who chooses to take electric
21 service in the manner described in the definition of Net Metering..."

22 16. A.A.C. R14-2-2307(A) requires that "Each Electric Utility shall file, for approval
23 by the Commission, a Net Metering tariff within 120 days from the effective date of these rules..."

24 17. The Net Metering Rules make no provision for the exclusion of any customer
25 having received an incentive payment from receiving energy payments under a net metering tariff.

26 18. Staff notes that while the Commission's approval of the Net Metering Rules
27 requires further action such as endorsement by the Arizona Attorney General prior to
28 effectiveness, it would not be in the public interest to approve Navopache's REIP program without

1 appropriate modification so as to allow for the operation of the Net Metering Rules. It was never
2 the Commission's intention that a Net Metering customer under the Net Metering Rules be
3 precluded from obtaining an incentive under the REST rules.

4 19. Staff has recommended that NEC not require customers to elect to receive either an
5 incentive payment or, as an alternative, energy payments and instead provide to customers
6 participating in the REIP credits and payments as contemplated in the Net Metering Rules.

7 20. This recommendation will make NEC's REIP more compatible with the Net
8 Metering Rules adopted by the Commission in October 2008.

9 21. The proposed REIP includes a number of requirements that help ensure that the
10 installed Distributed Renewable Energy Resources will function adequately and will remain in
11 service. The program requires that a licensed contractor install the system. The program requires
12 that the systems meet The Institute of Electrical and Electronics Engineers, Inc. n/k/a IEEE
13 standards, the National Electric Code, and NEC Interconnection standards. Each system must
14 meet Federal, State, and local building codes and be successfully inspected by the building official
15 having jurisdiction. Additionally, each system must be inspected by a representative of NEC to
16 verify that installed units meet the qualifications of the program and that the system meets
17 necessary code requirements.

18 22. The program includes refund obligations that require installed systems to remain in
19 operation. The program requires that should a customer sell their home within one year after
20 receiving the incentive payment they make arrangements to have the new buyer continue to
21 operate the system or alternatively reimburse NEC the total amount of the incentive payment.
22 Following one year of receiving the incentive, customers selling their homes would be required to
23 make arrangements to have the buyer agree to continue operation of the system. Should customers
24 remove their systems they will be required to refund the incentive payment to NEC on a pro-rated
25 basis depending on the amount of time the system has been in service. Following a year of
26 operation NEC will require a 90 percent reimbursement of the incentive. Following two years of
27 operation NEC will require an 80 percent reimbursement of the incentive. Calculation of the
28 ...

1 reimbursement of incentive requirement continues in a linear fashion with the reimbursement
2 requirement expiring after ten years of operation of the system.

3 23. Staff notes that the description of the REIP informational form included in the
4 application contains information that may be unclear to readers. The first sentence of the
5 document states: "With the Renewable Energy Incentive Program, NEC will pay its members \$3 /
6 watt (installed nameplate capacity) of an acceptable renewable energy technology* such as
7 photovoltaic array or a wind turbine, up to 50% of the installed cost." The footnote corresponding
8 to the single asterisk contained in the sentence is as follows: "* Those renewable energy
9 technologies which qualify for inclusion in the Arizona Corporation Commission Renewable
10 Energy Standard & Tariff." Taken together, these sentences explain that each technology included
11 in A.A.C. R14-2-1802 is eligible for the NEC REIP. The paragraph marked (1) on the REIP
12 informational form contains the following sentence: "You select and have installed a qualifying
13 solar electric system or wind turbine at your home or business." This sentence, taken in isolation,
14 may appear to communicate that only solar and wind technologies are eligible for the program. In
15 order to provide clarity in regard to eligible technologies, Staff has recommended that the first
16 sentence be changed to read: "You select and have installed a qualifying solar electric system,
17 wind turbine, or other renewable energy technology at your home or business."

18 24. Staff also notes that the paragraph marked (7) on the REIP informational form
19 states that should funding not be sufficient to provide all rebate requests, the rebates will be
20 provided on a first-come, first-served basis based on the date of the Enrollment Form, as soon as
21 funding is replenished through the Environmental Surcharge.

22 25. While this policy is an equitable method of dealing with a shortfall in funding, it
23 does not specifically state that the waiting list will extend from one program year to the next. The
24 proposed policy also does not address requirements contained in A.A.C. R14-2-1805. A.A.C.
25 R14-2-1805(D) requires that "An Affected Utility shall meet one-half of its annual Distributed
26 Renewable Energy Requirement from residential applications and the remaining one-half from
27 non-residential, non-utility applications." Should a first-come, first-served method be strictly
28 applied without consideration for an equal kWh production from residential and non-residential

1 Distributed Renewable Energy Requirement projects, the requirements of A.A.C. R14-2-1805(D)
2 may not be satisfied.

3 26. In order to clarify the treatment of rebate requests that are unfunded at the end of a
4 given program year and to include a provision that will assist in meeting the requirements of
5 A.A.C. R14-2-1805(D), Staff has recommended that NEC include the following information in the
6 filed plan:

7 In the event that demand for non-residential funds exceeds a period allocation,
8 NEC may provide reservations to those projects above the allocation depending
9 on the current REST compliance status and availability of funding. In the event
10 that funds collected for use in the Distributed Energy incentive program are not
11 fully subscribed in a program year, those funds will be applied towards the next
12 program year. The funds will be allocated to achieve the required energy
13 outcome between residential and non-residential projects.

14 27. This language is a component of APS' REST that was approved in Decision No.
15 70313 of April 2008. NEC has communicated to Staff that it supports inclusion of such a
16 provision in the NEC REIP. NEC may choose to adopt this language specifically, or alternatively,
17 make an adjustment to paragraph (7) to adopt the substance of this language.

18 28. Staff has recommended approval of the application, with the modifications
19 described herein, in order to help NEC meet the requirements of A.A.C. R14-2-1805.

20 29. Staff has further recommended that when filing future annual REST
21 Implementation Plans pursuant to A.A.C. R14-2-1813, NEC include the REIP as a component of
22 its Implementation Plan in order to provide a mechanism for the Commission to periodically
23 evaluate the program and make adjustments as necessary. This recommendation is meant to
24 reduce uncertainty that could arise as a result of approval of the REIP program in this Decision
25 rather than approving it within a Decision issued in response to the filing of an annual REST
26 Implementation Plan. As the REIP is a component of the REST, it should hereafter be included in
27 the annual REST Implementation Plan.

28 30. Staff has further recommended that NEC amend its Renewable Energy Incentive
Program literature and Enrollment Form consistent with this decision and in a form acceptable to
Staff.

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CONCLUSIONS OF LAW

1. Navopache Electric Cooperative, Inc. is a public service corporation within the meaning of Article XV of the Arizona Constitution.

2. The Commission has jurisdiction over Navopache Electric Cooperative, Inc. and the subject matter of the application.

3. The Commission, having reviewed the application and Staff's Memorandum dated October 29, 2008, concludes that it is in the public interest to approve the proposed Renewable Energy Incentive Program with the modifications described herein.

ORDER

IT IS THEREFORE ORDERED the proposed Renewable Energy Incentive Program is approved with the modifications described herein.

IT IS FURTHER ORDERED that Navopache Electric Cooperative, Inc. address the future operations of the REIP in future annual REST filings.

IT IS FURTHER ORDERED that when filing future annual REST Implementation Plans pursuant to A.A.C. R14-2-1813, NEC include the REIP as a component of its REST Implementation Plan.

1 IT IS FURTHER ORDERED that Navopache Electric Cooperative, Inc. amend its
 2 Renewable Energy Incentive Program literature and Enrollment Form consistent with this decision
 3 and in a form acceptable to Staff.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5
 6 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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CHAIRMAN	COMMISSIONER
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COMMISSIONER	COMMISSIONER	COMMISSIONER
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12
 13 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
 14 Director of the Arizona Corporation Commission, have
 15 hereunto, set my hand and caused the official seal of this
 Commission to be affixed at the Capitol, in the City of
 Phoenix, this _____ day of _____, 2008.

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 18 _____

BRIAN C. McNEIL
 EXECUTIVE DIRECTOR

19
 20 DISSENT: _____

21
 22 DISSENT: _____

23 EGJ:SPI:lhM\CH

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1 SERVICE LIST FOR: Navopache Electric Cooperative, Inc.
2 DOCKET NO. E-01787A-07-0576

3 Mr. John Wallace
4 Grand Canyon State Electric Cooperative Assn. Inc.
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6 Phoenix, Arizona 85034

7 Mr. Ernest G. Johnson
8 Director, Utilities Division
9 Arizona Corporation Commission
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