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**BEFORE THE ARIZONA CORPORATION**

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

Arizona Corporation Commission

**DOCKETED**

**NOV 19 2008**

DOCKETED BY MR

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. 70623

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

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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.

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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.

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

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*Samuel S. Mason*  
CHAIRMAN

*for William A. Merrill by Kim Exec Dir*  
COMMISSIONER

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COMMISSIONER

*[Signature]*  
COMMISSIONER

*[Signature]*  
COMMISSIONER

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IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
Director of the Arizona Corporation Commission, have  
hereunto, set my hand and caused the official seal of this  
Commission to be affixed at the Capitol, in the City of  
Phoenix, this 19<sup>th</sup> day of November, 2008.

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*[Signature]*  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

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DISSENT: \_\_\_\_\_

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DISSENT: \_\_\_\_\_

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EGJ:SPI:lhm\CH

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1 SERVICE LIST FOR: Navopache Electric Cooperative, Inc.  
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