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Direct Line: 602-542-3682
Fax: 602-542-3708
E-mail: mgleason@azcc.gov

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AZ CORP COMMISSION
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Commissioner William A. Mundell
Commissioner Jeff Hatch-Miller
Commissioner Kristin K. Mayes
Commissioner Gary Pierce

Arizona Corporation Commission
DOCKETED

NOV 24 2008

RE: Distributed Renewable Energy Implementation Costs
Docket No. E-01049A-08-0507 (Morenci)

DOCKETED BY *mm*

Dear Colleagues:

In his dissent from the Commission's Decisions approving APS', TEP's and UNS Electric's 2008 REST Implementation Plans, and in his recent letters regarding the affected utilities' proposed 2009 Plans, Commissioner Pierce stated that he voted against the 2008 Plans because of the Commission's refusal to relax R14-2-1805(D), which requires affected utilities to satisfy half of their annual distributed renewable obligation with residential applications and the other half from non-residential, non-utility applications. In his view, this requirement unjustifiably drives up the cost of renewable energy. Commissioner Pierce's position in that regard prompts me to make the following observations and suggestions:

The distributed renewable energy requirement, expressly *including the 50/50 split* between residential and commercial applications, was adopted by a separate vote of the Commission at its Special Open Meeting on August 10, 2005. From then on, the high cost of the distributed renewable energy requirement (R14-2-1805) relative to the overall renewable energy requirement (R14-2-1804), as well as cost and attainability concerns arising from the residential component of R14-2-1805, were the subject of extensive discussion throughout the Commission's lengthy deliberations on the proposed rules.⁹

At the culmination of the Commission's deliberations in the Open Meeting on October 31, 2006, no Commissioner offered any amendment to R14-2-1805(D). However, then-Chairman Hatch-Miller offered an amendment¹⁰ which, had it been adopted, would have had the effect of reducing the overall cost of complying with R14-2-1805. The proposed amendment failed.

⁹ See Docket No. RE-00000C-05-0030:

February 24, 2008, Arizona Public Service Company's Comments to Proposed Rules at pages 3 and 4
February 27, 2008, Special Open Meeting. Tr. pages 78-80; 96-105; 127-139
May 23, 2006, Public Comment Hearing. Tr. pages 230-236

¹⁰ Hatch-Miller Proposed Amendment No. 3, October 31, 2006, Tr. at pages 203-226

From the foregoing history, one can only conclude that the Commission's adoption of R14-2-1805, including the 50/50 split, was the result of a thorough and deliberative process. At the conclusion of that process, the Commission was fully cognizant of the cost and attainability implications of the rule as adopted. Under these circumstances, and assuming that the Commission's Rules carry the weight of law, there can be no justifiable basis for "relaxing" any of them. Instead, if the Commission finds that one of its rules is no longer, or perhaps never was, in the public interest, the Commission should amend or repeal the rule. Unless and until the Commission makes such a finding, however, the Commission should use all means available to it to enforce the rule, including the imposition of appropriate sanctions on the affected utilities if they fail to comply.

Regardless of my vote against the REST Rules and my deep concern over the residential distributed requirement in particular, I am compelled to offer these comments because any suggestion that the Commission may relax its rules, has the potential to degrade the Commission's authority as expressed through rulemaking.

Sincerely,



Mike Gleason
Chairman

C: Brian C. McNeil, Executive Director
Ernest Johnson, Utilities Division
Janice Alward, Chief Counsel