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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

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AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED
JAN 12 2009

DOCKETED BY 

IN THE MATTER OF THE APPLICATION OF
THE SOLAR ALLIANCE FOR A DECLARATORY
ORDER THAT PROVIDERS OF CERTAIN
SOLAR SERVICE AGREEMENTS WOULD NOT
BE PUBLIC SERVICE CORPORATIONS.

DOCKET NO. E-20633A-08-0513

PROCEDURAL ORDER

BY THE COMMISSION:

On October 3, 2008, The Solar Alliance ("Solar Alliance") filed with the Arizona Corporation Commission ("Commission") an application for a declaratory order that providers of certain solar service agreements would not be public service corporations pursuant to Article 15, Section 2 of the Arizona Constitution ("Application").

On October 31, 2008, the Commission's Utilities Division ("Staff") filed a Request for procedural conference to discuss potential alternatives for processing the application and a schedule for proceeding in this matter.

On November 3, 2008, a Procedural Order was issued setting a procedural conference as requested.

On November 7, 2008, the Interstate Renewable Energy Council ("IREC") filed a letter requesting that the Commission grant the Application without a hearing.

On November 20, 2008, Arizona Public Service Company ("APS") filed a Motion to Intervene.

On November 21, 2008, the Tucson-Pima County Metropolitan Energy Commission filed a letter in support of the Application.

On November 24, 2008, the procedural conference was convened as scheduled. Solar Alliance, APS, and Staff appeared through counsel and discussed whether there is a need to set a

1 hearing, the timing of processing the application, the timing of setting a hearing if one is necessary,
2 provision of public notice of the Application, and APS' intervention request.

3 On December 17, 2008, Staff filed a Request for Extension of Deadline to File Staff Report.
4 Therein, Staff requests that the deadline for filing a Staff Report be set for March 6, 2009, and states
5 that Solar Alliance has no objection to the revised date.

6 The Application requests Commission consideration without a hearing. At the procedural
7 conference, Solar Alliance requested that a hearing be set only if it becomes apparent, after the filing
8 of the Staff Report, that a hearing will be necessary. Staff stated at the procedural conference that it
9 is not opposed to attempting to process the Application without a hearing, but that no party can
10 guarantee that disputed issues will not arise. At the time of the procedural conference, Staff had not
11 yet completed discovery in preparation for its Staff Report, and therefore was not certain whether the
12 Application involves disputed issues of fact, in which case a hearing will be necessary. Staff stated
13 that it might be helpful to set a hearing date prior to the filing of the Staff Report, with the
14 understanding that the hearing could then be vacated if it becomes apparent that no hearing is
15 necessary.

16 Because no party has requested a hearing, no hearing will be set at this time. The Staff Report
17 should indicate whether Staff believes there are disputed issues of fact in this case, and a
18 recommendation to the Commission regarding the need for a hearing at the time the Staff Report is
19 filed. At the time parties to this case file their responses to the Staff Report, if a hearing has not been
20 set and a party believes that there are disputed issues of fact in this case, the party should so indicate
21 and may request a hearing. Parties should keep in mind that the existence of disputes regarding legal
22 issues does not necessarily indicate the existence of disputed issues of fact.

23 At the procedural conference, no party objected to notice of the Application being provided to
24 the newly-updated service list for the generic docket on electric restructuring, Docket No. E-00000A-
25 02-0051. Solar Alliance will therefore be required to publish statewide notice of the Application, and
26 to provide public notice by U. S. Mail to the entities the newly-updated service list for Docket No.
27 E-00000A-02-0051 as reflected on the Commission's website (www.azcc.gov) using the e-Docket
28 function, on the date of mailing notice.

1 Solar Alliance did not object to APS' Motion to Intervene, and intervention will therefore be
2 granted.

3 IT IS THEREFORE ORDERED that Arizona Public Service Company is hereby granted
4 intervention in this proceeding.

5 IT IS FURTHER ORDERED that the deadline for intervention in this matter is **February 20,**
6 **2009.**

7 IT IS FURTHER ORDERED that the Commission's Utilities Division shall file a **Staff**
8 **Report** on the Application on or before **March 6, 2009.**

9 IT IS FURTHER ORDERED that intervenors shall file a **Response to the Staff Report** on or
10 before **April 10, 2009.**

11 IT IS FURTHER ORDERED that Staff shall indicate in the Staff Report whether Staff
12 believes there are disputed issues of fact in this case at the time the Staff Report is filed, and shall
13 make a recommendation to the Commission regarding the need for a hearing.

14 IT IS FURTHER ORDERED that if a hearing has not been set at the time parties file their
15 Responses to the Staff Report, and a party believes that there are disputed issues of fact in this case at
16 that time, the party should so indicate in its Response, and may request a hearing.

17 IT IS FURTHER ORDERED that any responses to motions shall be filed within five calendar
18 days of the filing date of the motion.

19 IT IS FURTHER ORDERED that any replies shall be filed within five calendar days of the
20 filing date of the response.

21 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are
22 not ruled upon by the Commission within 20 calendar days of the filing date of the motion shall be
23 deemed denied.

24 IT IS FURTHER ORDERED that The Solar Alliance shall provide public notice of its
25 October 3, 2008, application filed in this docket in the following form and style, with the heading in
26 no less than 18-point bold type and the body in no less than 10-point regular type:

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**PUBLIC NOTICE OF THE
APPLICATION OF THE SOLAR ALLIANCE FOR
A DECLARATORY ORDER THAT PROVIDERS OF CERTAIN SOLAR SERVICE
AGREEMENTS WOULD NOT BE PUBLIC SERVICE CORPORATIONS
(DOCKET NO. E-20633A-08-0513)**

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Summary

On October 3, 2008, The Solar Alliance ("Solar Alliance" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for a declaratory order that providers of certain solar service agreements would not be public service corporations pursuant to Article 15, Section 2 of the Arizona Constitution ("Application"). The Commission's Utilities Division is reviewing the Application and will make a recommendation to the Commission regarding the Application. Other parties granted intervention will also have an opportunity to make recommendations to the Commission regarding the Application. The Commission will consider the recommendations of all parties, but is not bound by those recommendations in determining the appropriate relief to be granted.

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How You Can View or Obtain a Copy of the Application

Copies of the Application are available at Applicant's offices [insert address] and at the Commission's Docket Control Center at 1200 West Washington, Phoenix, Arizona, for public inspection during regular business hours and on the Internet via the Commission's website (www.azcc.gov) using the e-Docket function.

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Arizona Corporation Commission Public Comment Information

Written public comments may be submitted in this case by mailing a letter referencing Docket No. E-20633A-08-0513 to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by e-mail. For a form to use and instructions on how to e-mail comments to the Commission, go to http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf. If you require assistance, you may contact the Consumer Services Section at 1-800-222-7000.

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About Intervention

Under appropriate circumstances, interested persons or entities may intervene and become a party to this case. Any person or entity entitled by law to intervene and having a direct and substantial interest in the matter will be permitted to intervene. If you wish to intervene, you must file an original and 13 copies of a written motion to intervene with the Commission no later than **February 20, 2009**, and send a copy of the motion to Applicant or its counsel and to all parties of record. Your motion to intervene must contain the following:

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1. Your name, address, and telephone number, and the name, address, and telephone number of any party upon whom service of documents is to be made, if not yourself;
 2. A short statement of your interest in the proceeding; and
 3. A statement certifying that you have mailed a copy of the motion to intervene to Applicant or its counsel and to all parties of record in the case.

1 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
2 that all motions to intervene must be filed on or before February 20, 2009. If
3 representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme
4 Court, intervention will be conditioned upon the intervenor obtaining counsel to
5 represent the intervenor. For information about requesting intervention, visit the
6 Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>.
7 No party has requested a hearing on the Application.

8 **ADA/Equal Access Information**

9 The Commission does not discriminate on the basis of disability in admission to its
10 public meetings. Persons with a disability may request a reasonable accommodation
11 such as a sign language interpreter, as well as request this document in an alternative
12 format, by contacting the ADA Coordinator, Linda Hogan, E-mail Lhogan@azcc.gov,
13 voice phone number 602/542-3931. Requests should be made as early as possible to
14 allow time to arrange the accommodation.

15 IT IS FURTHER ORDERED that Applicant shall mail a copy of the above notice to each
16 entity appearing on the Commission's website (www.azcc.gov) e-Docket service list for the generic
17 electric restructuring docket, Docket No. E-00000A-02-0051, as of the date of mailing notice, and
18 shall also cause the above notice to be published at least once in a newspaper of statewide circulation,
19 with publication to be completed no later than **January 28, 2009**.

20 IT IS FURTHER ORDERED that Applicant shall file certification of mailing/publication as
21 soon as practicable after the mailing/publication has been completed, but not later than January 30,
22 2009.

23 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and
24 publication of same as ordered herein, notwithstanding the failure of an entity to read or receive the
25 notice.

26 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
27 Communications) applies to this proceeding and shall remain in effect until the Commission's
28 Decision in this matter is final and non-appealable.

IT IS FURTHER ORDERED that all parties must comply with Rule 33 (c) and (d) of the
Rules of the Arizona Supreme Court with respect to practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
Rules of the Arizona Supreme Court). Representation before the Commission includes the obligation

1 to appear at all hearings and procedural conferences, as well as all Open Meetings for which the
2 matter is scheduled for discussion, unless counsel has previously been granted permission to
3 withdraw by the Administrative Law Judge.

4 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
5 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
6 hearing.

7 DATED this 12th day of January, 2009.

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11 TEENA WOLFE
ADMINISTRATIVE LAW JUDGE

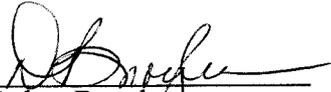
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13 Copies of the foregoing mailed/delivered
this 12th day of January, 2009 to:

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By: 
Debra Broyles
Secretary to Teena Wolfe