

ORIGINAL



**EMBRY-RIDDLE**  
AERONAUTICAL UNIVERSITY



0000093999

RECEIVED

DAN CARRELL, EXECUTIVE VICE PRESIDENT AND CHIEF OPERATING OFFICER  
3700 WILLOW CREEK ROAD, PRESCOTT, AZ 86301-3720

T 928.777.3800 F 928.777.3899  
CARRELL@ERAU.EDU

February 18, 2009

AZ CORP COMMISSION  
DOCKET CONTROL

E-20633A-08-0513

Ms. Kristin Mayes  
Chairman  
Arizona Corporation Commission  
Commissioners Wing  
1200 West Washington – 2<sup>nd</sup> Floor  
Phoenix, AZ 85007

Arizona Corporation Commission  
**DOCKETED**

FEB 24 2009

DOCKETED BY

Dear Ms. Mayes:

We are writing to offer comments regarding the current statute mandating that Power Purchase Agreements (PPA's) developed in the State of Arizona must be regulated as utilities. In short, the State Constitution requires all sellers of electric power to be registered and regulated as public utility companies, which we and others sense will limit the needed proliferation of renewable energy power generation in the State.

The specific clause of the Arizona State Constitution in question is Article 15, Section 2 which reads in part:  
"All corporations other than municipal engaged in furnishing ... electricity for light, fuel, or power ... shall be deemed public service corporations."

The resultant regulation serves to make it unlikely that any party – private or public – would invest in building or operating electric power generating equipment because of the provisions of Section 3:

"The corporation commission shall ... prescribe ... just and reasonable rates and charges to be made and collected, by public service corporations ... for service rendered ... and make reasonable rules ... by which such corporations shall be governed in the transaction of business within the state, and may prescribe the forms of contracts...."

Before the ACC is Docket No. E-20633A-08-0513, filed by The Solar Alliance seeking adjudication by the Corporation Commission of not being classified as a "Public Service Corporation (PSC)." This adjudication, favoring the proliferation of renewable energy sources would be a significant and positive step. Other states, including California, Colorado, and New Jersey have already determined that companies building and operating solar power generating facilities and supplying power to a single "customer" are not required to be regulated as PSCs.

It should be noted that the Constitution of the State was ratified on 11 December 1911, when electric power was new and standards were emerging and evolving. Further, the framers surely did not envision a time when fossil fuels would become scarce and pollution would threaten our way of life.

In 2006 the ACC heard arguments for and against its Renewable Energy Standard (RES) and the Environmental Portfolio Standard (EPS). The RES and EPS stand, and by 2024 15% of all energy must come from renewable sources such as solar – and a significant portion of that must come from "distributed generation." Distributed generation is privately funded and requires significant capital investment and operating skills in order to

RECEIVED  
FEB 23 2009  
By \_\_\_\_\_

encourage investment in such projects, there must be an interpretation of the definition of PSCs that is favorable to the establishment of PPAs.

In our opinion, the Arizona Corporation Commission should move swiftly to reduce the regulation of PPAs to allow reasonable operation in the State of Arizona.

Respectfully,

A handwritten signature in black ink, appearing to read 'Dan Carrell', written over a light blue horizontal line.

Dan Carrell  
Executive Vice President &  
Chief Operating Officer

CC: Chamber of Commerce  
City Hall