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BEFORE THE ARIZONA CORPORATION COMMISSION

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2 COMMISSIONERS

- 3 KRISTIN K. MAYES, Chairman
- 4 GARY PIERCE
- 4 PAUL NEWMAN
- 5 SANDRA D. KENNEDY
- 5 BOB STUMP

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Arizona Corporation Commission

AZ CORP COMMISSION
DOCKET CONTROL

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FEB 27 2009

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

DOCKET NO. E-20633A-08-0513

PROCEDURAL ORDER

10

11 **BY THE COMMISSION:**

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

16 On October 31, 2008, the Commission's Utilities Division ("Staff") filed a Request for
 17 procedural conference.

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

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

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

24 On November 24, 2008, the procedural conference was convened as scheduled by Procedural
 25 Order issued November 3, 2008. Solar Alliance, APS, and Staff appeared through counsel.

26 On January 12, 2009, a Procedural Order was issued granting intervention to APS, ordering
 27 publication and mailing of notice of the Application, setting a deadline for intervention, and setting a
 28 deadline for the filing of a Staff Report on the Application, and for filing Responses thereto.

1 On January 30, 2009, and February 4, 2009, Solar Alliance filed Notices of Filing Affidavits
2 of Publication and Public Notice.

3 Motions to Intervene were timely filed by Salt River Project Agricultural Improvement and
4 Power District ("SRP"), Trico Electric Cooperative, Inc. ("Trico"), Tucson Electric Power Company
5 ("TEP"), Freeport-McMoRan Copper & Gold, Inc. ("Freeport-McMoRan"), Arizonans for Electric
6 Choice and Competition ("AECC"), Arizona Electric Power Cooperative, Inc. ("AEPCO"), the
7 Residential Utility Consumer Office ("RUCO"), Mohave Electric Cooperative, Inc. ("MEC"),
8 Navopache Electric Cooperative, Inc. ("Navopache"), Sulphur Springs Valley Electric Cooperative,
9 Inc. ("SSVEC"), Sempra Energy Solutions, LLC ("SES"), and IREC.

10 IREC's February 20, 2009, Motion to Intervene requested temporary admission *pro hac vice*
11 of Mr. Kevin T. Fox until such time that Mr. Fox has had an opportunity to complete the admission
12 procedures set forth in Arizona Supreme Court Rule 38(a).

13 On February 24, 2009, Embry-Riddle Aeronautical University filed comments in support of
14 the Application.

15 On February 25, 2009, Solar Alliance filed a response to SES' intervention request. Solar
16 Alliance does not object to SES' intervention. SES also requested issuance of a procedural order
17 setting a procedural schedule for processing the Application, including an evidentiary hearing and
18 provision for filing briefs and/or oral argument. As Solar Alliance correctly points out, the January
19 12, 2009, procedural order established the procedure for determining whether a hearing is necessary.
20 No change to that procedure is necessary at this time.

21 No objection to Mr. Fox's temporary *pro hac vice* admission request has been filed.

22 Accordingly, for good cause shown and pursuant to Arizona Supreme Court Rule 38(a), the
23 request for temporary admission *pro hac vice* admission is reasonable and should be granted to Mr.
24 Fox for the purpose of seeking IREC's intervention, pending his completion of the application
25 procedures set forth in Rule 38(a) for admission *pro hac vice*. Pursuant to Rule 38(a), in the event of
26 Mr. Fox's failure to timely complete the application procedures, the temporary *pro hac vice*
27 admission granted herein will be revoked.

28 No objections to the requested interventions have been filed and accordingly, SRP, Trico,

1 TEP, Freeport-McMoRan, AECC, AEPCO, RUCO, MEC, Navopache, SSVEC, SES and IREC
2 should be granted intervention.

3 IT IS THEREFORE ORDERED that Mr. Kevin T. Fox, on behalf of IREC, shall be permitted
4 to appear on a temporary *pro hac vice* basis in this matter pursuant to Arizona Supreme Court Rule
5 38(a), for the purpose of seeking IREC's intervention, pending completion of the application
6 procedures set forth in Arizona Supreme Court Rule 38(a) for admission *pro hac vice*.

7 IT IS FURTHER ORDERED that Mr. Fox shall complete the required application procedures
8 for admission *pro hac vice*, including a Motion to Associate Counsel *pro hac vice*, no later than **April**
9 **1, 2009**, and that the temporary *pro hac vice* admission granted herein shall be revoked, pursuant to
10 Arizona Supreme Court Rule 38(a), in the event of Mr. Fox's failure to so complete the application
11 procedures.

12 IT IS FURTHER ORDERED that SRP, Trico, TEP, Freeport-McMoRan, AECC, AEPCO,
13 RUCO, MEC, Navopache, SSVEC, SES and IREC are hereby granted intervention.

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

17 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rule
18 38(a) with respect to practice of law and admission *pro hac vice*.

19 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
20 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
21 Rules of the Arizona Supreme Court). Representation before the Commission includes the obligation
22 to appear at all hearings and procedural conferences, as well as all Open Meetings for which the
23 matter is scheduled for discussion, unless counsel has previously been granted permission to
24 withdraw by the Administrative Law Judge.

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

4 DATED this 27th day of February, 2009.

5
6 
7 TEENA WOLFE
8 ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered
10 this 27th day of February, 2009 to:

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