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BEFORE THE ARIZONA CORPORATION COMMISSION

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

Docket No. E-20633A-08-0513

RUCO'S RESPONSE TO STAFF'S MEMORANDUM OF MARCH 11, 2009

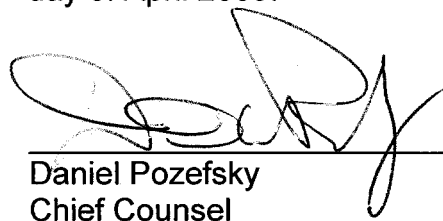
12 The Residential Utility Consumer Office ("RUCO") hereby responds to Staff's
 13 Memorandum concerning the Solar Alliance's ("Alliance") application for a declaratory order.
 14 Like Staff, RUCO generally supports efforts to make solar facilities more available to the
 15 public. The purpose for the Alliance appears to be an attempt to make solar facilities more
 16 available to the public. What is less clear, are the Alliance's reasons for seeking declaratory
 17 relief before this Commission.

18 The application raises many issues, both legal and factual. For example, the Alliance
 19 claims that the provision of energy is incidental to its function. Application at 13. While this
 20 argument supports the Alliance's requested relief from a legal standpoint, factually it is
 21 questionable, as well as contrary to common sense. From its customers' standpoint, the
 22 Alliance's purpose will be to provide an alternative form of energy that results in a lower energy
 23 cost. It is difficult to understand how the provision of energy is simply incidental to the
 24 Alliance's purpose.

1 The Alliance requests a declaratory order that providers of the SSA's that conform to
2 certain criteria are not public service corporations. Application at 3. This request is
3 inconsistent with the Alliance's declaration that what they seek is not a declaration that a
4 particular entity is a public service corporation, but a generic determination that a transaction
5 with certain characteristics is not subject to Commission scrutiny. Application at 6. It is
6 unclear exactly what the Alliance seeks and whether the Alliance even has legal standing to
7 make such a request, or whether the Commission can make such a generic determination.

8 Among the many other unaddressed issues raised by the Application are the public
9 policy considerations. In sum, RUCO agrees with Staff that there are many considerations
10 raised by the Alliance's application that require more factual as well as legal analysis. At this
11 point, a hearing would be helpful and RUCO supports Staff's recommendation to schedule a
12 hearing.

13 RESPECTFULLY SUBMITTED this 17th day of April 2009.

14
15 
16 Daniel Pozefsky
17 Chief Counsel

18 AN ORIGINAL AND THIRTEEN COPIES
19 of the foregoing filed this 17th day
20 of April 2009 with:

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