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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission  
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CARL J. KUNASEK  
Chairman  
JIM IRVIN  
Commissioner  
WILLIAM A. MUNDELL  
Commissioner

IN THE MATTER OF THE NOTICE OF  
PROPOSED RULEMAKING  
FOR THE ENVIRONMENTAL  
PORTFOLIO STANDARD

DOCKET NO. RE-00000C-00-0377

COMMENTS OF NEW WEST ENERGY CORPORATION

Pursuant to the procedural order dated August 9, 2000, New West Energy hereby submits the following comments on the proposed Environmental Portfolio Standard (EPS) rule recommended by staff and published as Exhibit A to Decision No. 62762 dated August 2, 2000. New West Energy is an Energy Service Provider providing Competitive Services in Arizona pursuant to a Certificate of Convenience and Necessity issued by the Commission.

Given that the Commission has approved the general form of the EPS rule in Decision No. 62506, New West Energy's comments are largely technical in nature and are intended to clarify the intent of the rule.

**I. THE EPS RULE SHOULD APPLY TO UTILITIES OFFERING STANDARD OFFER SERVICES**

The proposed rule, 14-2-1618.A states that the EPS rule applies to "...any Electric Service Provider selling electricity or aggregating customers for the purpose of selling electricity under provisions of this Article...." Because the competition rules define Electric Service Providers as a company supplying Competitive services, which explicitly excludes Standard Offer Service, the use of the term Electric Service Provider

1 in this paragraph would have the effect of excluding Affected Utilities from the portfolio  
2 standard. The reference should be corrected to assure that the rule applies to  
3 companies providing standard offer service. This improper use of the defined term  
4 Electric Service Provider is repeated several times in the proposed rule and should be  
5 corrected wherever it occurs.

6 **II. EXTRA CREDITS EARNED ON SOLAR ELECTRIC TECHNOLOGIES**  
7 **SHOULD APPLY TO THE SOLAR FRACTION REQUIREMENT**

8 Rule 14-2-1618.B.3 provides that, depending on the year, 50 to 60 percent of the  
9 EPS requirement will be met by solar electric technologies. The rule should be modified  
10 to clarify that extra credits earned on solar electric technologies will also count toward  
11 the solar electric fraction.

12 **III. RIGHTS TO QUALIFYING ENERGY AND EXTRA CREDITS SHOULD BE**  
13 **MORE EXPLICITLY DEFINED**

14 The rules provide that an energy provider can meet its requirement either by  
15 installing qualifying technologies or by purchasing energy or credits from others that  
16 have installed qualifying technologies. The rules also provide for "banking" of qualifying  
17 energy and credits that are not used in a given year. The only reference to who might  
18 initially claim the various credits is in Rule 14-2-1618.D.3.a. That paragraph provides  
19 "...in order for an Electric Service Provider to claim a [distributed] extra credit multiplier,  
20 the Electric Service Provider must have contributed at least 10% of the total installed  
21 cost or have financed at least 80% of the total installed cost."

22 Given the intended marketability of qualifying energy and extra credits, it may be  
23 simpler to define all energy and extra credits as belonging to the person who owns the  
24 installation. The owner can, in turn, bank or sell the energy or credits to energy  
25 providers who can use them to meet some or all of their EPS requirement. For

1 example, an independent retailer could sell a system directly to a customer in Arizona.  
2 The customer would own the energy and extra credits but could sell it to any energy  
3 provider that needs credits in order to meet the EPS requirement. An energy provider  
4 who subsidizes or finances a system could do so on the condition that the owner sells  
5 the credits to the energy provider. This proposed change accomplishes the intent of the  
6 requirement and simplifies dealing with issues such as who claims the credits when a  
7 customer switches from one energy provider to another. It also prevents energy  
8 providers from claiming credits for systems owned by customers but for which the  
9 energy provider has no responsibility.

10       Allowing the sale of credits without energy (and unlimited use of credits to meet  
11 the portfolio requirement) may be important to achieving the goal of providing incentives  
12 for off-grid applications where it may not be possible to sell the energy but it may be  
13 possible to sell credits.

14 ***IV. CLARIFY THAT EXTRA CREDITS ARE BANKABLE BY THE OWNER***

15       Rule 14-2-1608.I provides that any ESP or independent solar electric generator  
16 that produces or purchases any solar kWh in excess of its annual portfolio requirements  
17 may save or bank those solar kWh for use or sale in future years. The terms  
18 "independent solar electric generator" and "solar kWh" are not defined.

19       This section should be modified to provide that the owner of any facility  
20 producing energy or extra credits that satisfy the requirements of paragraph R.14-2-  
21 1618 may sell or bank the energy or extra credits for use in meeting a future year  
22 requirement. This would avoid the need to define the term "independent solar electric

23 ...

24 ...

25 ...

1 generator" and would conform this section to accommodate the addition of  
2 environmentally friendly technologies that were incorporated into the revised rule.

3 RESPECTFULLY SUBMITTED this 5<sup>th</sup> day of October, 2000.

4 JENNINGS, STROUSS & SALMON, P.L.C.

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19 Copies of the foregoing mailed this  
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