



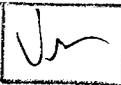
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Arizona Corporation Commission
DOCKETED

BEFORE THE ARIZONA CORPORATION COMMISSION

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CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

DOCKETED BY 

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2000 OCT 26 10 14 3
AZ CORP COMMISSION
DEPARTMENT CONTROL

IN THE MATTER OF NOTICE OF)
PROPOSED RULEMAKING FOR THE)
ENVIRONMENTAL PORTFOLIO)
STANDARD.)
_____)

DOCKET NO. RE-000009-00-0377
REPLY COMMENTS

The Arizona Clean Energy Industries Alliance and York Research, Inc. ("the Solar and Renewable Energy Industries"), pursuant to the Chief Administrative Law Judge's August 9, 2000 Procedural Order, make the following Reply Comments to the Commission Staff's and Interested Parties' October 5, 2000 Comments regarding the Commission's proposed R14-2-1618 ("Environmental Portfolio Standard"):

1. COMMISSION STAFF

The Solar and Renewable Energy Industries support the Commission Staff's recommendations. Staff recommends two minor changes to the wording of the Environmental Portfolio Standard to avoid confusion and reflect the true meaning under the Standard. First, the Commission Staff recommends that every reference to "Electric Service Provider" or "ESP" (with the exception of sections R14-2-1618(A)(1) and (A)(4)) be changed to "Load-Serving Entity". The Solar and Renewable Energy Industries agree with Staff that the wording change will avoid any confusion as to the applicability of the portfolio requirements on UDCs. We also believe that this wording change reflects the intent of the

1 Commission in adopting the Environmental Portfolio Standard, which is that the Standard
2 should apply to UDCs.

3 The Commission Staff next recommends that in R14-2-1618(F) of the Environmental
4 Portfolio Standard, all references to "penalty" should be changed to "deficiency payment".
5 The Solar and Renewable Energy Industries support this wording change because it clearly
6 reflects the intent of the Commission in adopting the Solar Electric Fund, which is if a load-
7 serving entity fails to meet its obligation to produce electricity from solar and other renewable
8 sources under the Standard, the deficiency payment will be used to meet the load-serving
9 entity's obligation.
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11 **2. CITIZENS COMMUNICATIONS COMPANY**

12 Citizens interprets R14-2-1618(A)(2) to mean that the UDC will apply the
13 Environmental Portfolio Standard surcharge to its standard offer customers, and that
14 participating competitive ESP(s) will also apply this surcharge to their direct access
15 customers. The Solar and Renewable Energy Industries, however, read R14-2-1618(A) to
16 mean that the UDC only, will apply the surcharge to all distribution customers, and the UDC
17 will in turn remit to participating ESP(s) their respective "pro rata" share of funds collected
18 for portfolio purposes." See R14-2-1618(A)(1). The Solar and Renewable Energy Industries
19 believe that this is the correct approach for several reasons. First, the UDC, as the distribution
20 utility, will have all kWh sales data as part of its distribution service. Thus, the UDC can
21 easily calculate each participating ESP's pro rata share of the portfolio funds and simply remit
22 the monies to the ESP. Second, in a competitive environment it is more appropriate for the
23 regulated UDC to apply the Commission mandated Environmental Portfolio Standard
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1 surcharge as a non-bypassable rate on its distribution consumers (like a CTC), rather than
2 burden the competitive ESPs with applying and explaining this surcharge to their competitive
3 customers. Last, the Environmental Portfolio Standard surcharge is not a product of electric
4 deregulation (as it applies to the UDCs) and can function in the absence of electric
5 competition (at least until 2004). Thus, to burden the participating ESPs now with collection
6 of the surcharge is simply unnecessary. At the review point in 2004, this issue can be
7 revisited.
8

9 Citizens also recommends that competitive ESPs that elect to voluntarily participate in
10 the portfolio requirements be forced to should satisfy the percentage of total retail energy
11 sales specified in the Rule. Citizens also believes that customers who move from one
12 participating ESP to another participating ESP should cause the responsibility for meeting the
13 specified percentage of energy sales to move with them and should do so with no retroactive
14 true-up of funding. The Solar and Renewable Energy Industries disagree with this approach.
15 During the period when ESPs can elect to voluntarily participate in the portfolio requirements,
16 the Commission should not force any participating ESP to satisfy the percentage of total retail
17 energy sales specified in the Environmental Portfolio Standard. During the hearing
18 deliberations in this matter, it was determined that for practical reasons, it is in the public
19 interest for ESP participation in the Environmental Portfolio Standard to be strictly voluntary
20 until 2004. We believe that Citizens' recommendations would erode the Commission's intent
21 to make the Environmental Portfolio Standard voluntary of the ESPs until 2004. It would also
22 make it very unlikely that any ESP would elect to participate in the Environmental Portfolio
23 Standard at all. Thus, the Solar and Renewable Energy Industries recommend that the
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1 Commission reject Citizens' recommendation in this regard. After 2004, however, the Solar
2 and Renewable Energy Industries would expect that ESP participation be mandatory, and that
3 each ESP be required to satisfy the percentage of total retail energy sales specified in the
4 Environmental Portfolio Standard.

5 Citizens next recommends that the Environmental Portfolio Standard exclude Dusk-to-
6 Dawn street lighting from the surcharge applicability. The relevant rule in this regard is R14-
7 2-1618(A)(2), which reads in part:
8

9 There shall be a surcharge cap of \$13 per month per meter or
10 per service if no meter is used for all non-residential customers,
11 except for those non-residential customers whose meter's
12 registered demand is 3000 kW or more for 3 consecutive
13 months, who will be subject to a surcharge cap of \$39.00 per
14 month per meter. [Emphasis supplied.]

15 Citizens apparently interprets the surcharge "per service" under R14-2-1618(A)(2) in regard
16 to Dusk-to-Dawn street lighting to mean a surcharge per each streetlight. The Solar and
17 Renewable Energy Industries, however, interprets R14-2-1618(A)(2) to mean a surcharge per
18 each account for street lighting service. For example, if a utility has three customer accounts
19 under its street lighting service tariff, the surcharge would apply only once to each street
20 lighting account, not to each streetlight. Therefore, under the Solar and Renewable Energy
21 Industries interpretation of the Rule, the Environmental Portfolio Standard will have a
22 minimal impact on Dusk-to-Dawn street lighting for utilities as well as municipalities.

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1 **3. LAND AND WATER FUND OF THE ROCKIES, THE GRAND**
2 **CANYON TRUST, THE ARIZONA CONSUMERS COUNCIL, AND**
3 **THE GRAND CANYON CHAPTER OF THE SIERRA CLUB**

4 The Solar and Renewable Energy Industries agree with the Land and Water Fund of
5 the Rockies, the Grand Canyon Trust, the Arizona Consumers Council, and the Grand Canyon
6 Chapter of the Sierra Club ("the Environmental Group") recommendations that the
7 Commission adopt the Environmental Portfolio Standard rule as promulgated. The
8 Environmental Group is correct when they state that the Environmental Portfolio Standard
9 properly balances the benefits that can result from a resource portfolio diversified with clean
10 energy generation, with a very modest cost that includes appropriate cost caps.

11 The Solar and Renewable Energy Industries also support the notion that diversification
12 of the current energy mix through solar and other clean energy resources may help to dampen
13 energy price spikes such as those experienced in California this past summer due to the rising
14 cost of natural gas and the inability of current natural gas power plants to meet demand.

15 Lastly, the Solar and Renewable Energy Industries agree with the Environmental
16 Group opinion that the Environmental Portfolio Standard is already bringing stimulating the
17 utilities to develop a solar and clean energy programs. For example, a few solar and
18 renewable energy companies have already received Requests for Proposals from several
19 major utilities. On this point, the Solar and Renewable Energy Industries would add that it
20 would be beneficial for all of the utilities, have not yet done so, to place their RFPs on their
21 respective internet sites. This way, all interested solar and other renewable energy companies
22 around the country would have an opportunity to provide the affected utilities with proposals.
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1 This enhanced competition for proposals would aid in further driving down the costs of
2 achieving the portfolio standard.

3 **4. CITY OF TUCSON**

4 The Solar and Renewable Energy Industries agree with the comments filed by the City
5 of Tucson. Like the City of Tucson, the Solar and Renewable Energy Industries believe that
6 the Environmental Portfolio Standard, as promulgated by the Commission under R14-2-1618,
7 will encourage the development and use of renewable sources and represents sound energy
8 policy. The Solar and Renewable Energy Industries applaud the City of Tucson for its
9 progressive plan to use its municipal electricity cost savings from the Tucson Electric Power
10 Company's 1% rate reduction to fund solar energy projects at its municipal facilities.
11

12 **5. CITY OF SCOTTSDALE**

13 The City of Scottsdale complains that the Environmental Portfolio Standard is unfair
14 to it because of the diversity and number of meters the City has in service. The City of
15 Scottsdale explains that the Environmental Portfolio Standard will cost the City
16 approximately \$20,000 per year for its 330 meters. The Solar and Renewable Energy
17 Industries believe that the City of Scottsdale's complaint in this regard amounts to a "tempest
18 in a teapot". This is because it is the Solar and Renewable Energy Industries understanding
19 that the City of Scottsdale's obligation under the Environmental Portfolio Standard is at best,
20 less than 2% of the City's total municipal electric bill. Thus, this is less than the electricity
21 savings being passed on to the City under APS' Settlement Agreement on Deregulation.¹
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25 ¹ It is the Solar and Renewable Energy Industries understanding that under the APS Settlement Agreement, APS
26 will reduce its prices for residential and small business customers by a total of 7.5 percent from 1999 to 2003.
APS will reduce its prices for larger customers who use 3 megawatts or more by a total of 5 percent from 1999
to 2002.

1 Next, the City of Scottsdale recommends the elimination of Green Power Programs
2 such as APS' Solar Partner Program. It is the Solar and Renewable Energy Industries
3 understanding that Green Power programs, such as APS' Solar Partner Program, are strictly
4 voluntary. Thus, our position is that Green Power Programs should not be eliminated, and
5 that each customer should be allowed to decide for itself whether to continue participating in
6 these Programs.
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8 Finally, the City of Scottsdale recommends that the Commission consider a provision
9 in the Environmental Portfolio Standard forgiving the Portfolio surcharge for those customers
10 whom install their own renewable generation. This recommendation appears reasonable.
11 Therefore, the Solar and Renewable Energy Industries does not oppose this recommendation
12 (assuming that the solar and renewable generation facilities are owned by the City and not by
13 the utility), because its goal is the same as the goal under the Portfolio Standard, which is the
14 development of solar and other renewable generation sources.
15

16 **6. RESIDENTIAL UTILITY CONSUMER OFFICE**

17 RUCO simply reasserts the comments contained in its Application for Rehearing filed
18 with the Commission on May 24, 2000. RUCO recommends that the Commission should not
19 proceed with proposed R14-2-1618 because the Commission exceeded its authority in
20 adopting the Environmental Portfolio Standard.
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22 The Solar and Renewable Energy Industries find RUCO's objections to the
23 Environmental Portfolio Standard curious in light of the fact that RUCO choose not to
24 actively participate in the hearing, which resulted in the Commission's adoption of the
25 Environmental Portfolio Standard and proposed R14-2-1618. Several examples illustrate this
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1 point. First, RUCO did not file any pre-filed testimony or responsive testimony in the
2 Environmental Portfolio Standard proceeding. Second, although an attorney for RUCO made
3 an initial appearance on the first day of the hearing in this matter, the attorney merely sat in
4 the back of the room and did not participate. Third, no person from RUCO was present
5 during the other hearing days in this matter. Fourth, RUCO did not present a single witness at
6 the hearing in this matter. Fifth, RUCO did not cross-examine any witnesses at the hearing in
7 this matter. Thus, despite RUCO's absence and lack of participation in the hearing process
8 leading up to the Commission's adoption of the Environmental Portfolio Standard, RUCO
9 now threatens litigation in an Administrative Review proceeding.
10

11 For these reasons, at present the Solar and Renewable Energy Industries will only
12 comment that we believe that the Commission's adoption of the Environmental Portfolio
13 Standard is well within the Commission's authority under the Arizona Constitution, and that
14 RUCO's objections are without merit. Accordingly, the Commission should proceed with the
15 promulgation of proposed R14-2-1618.
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17 **7. NEW WEST ENERGY CORPORATION**

18 New West Energy makes comments that are technical in nature and intended simply to
19 clarify the intent of certain provisions of the Environmental Portfolio Standard. First, New
20 West recommends that the term "Electric Service Provider" be corrected to assure that the
21 rule applies to the any Affected Utilities providing standard offer service. The Solar and
22 Renewable Energy Industries agree with this recommendation. We believe that this wording
23 correction will avoid any confusion as to the applicability of the portfolio requirements on
24 UDCs. We also believe that this wording correction reflects the intent of the Commission in
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1 adopting the Environmental Portfolio Standard, which is that the Standard should apply to
2 UDCs.

3 Second, New West recommends that R14-2-1618(B)(3) should be modified to clarify
4 that extra credits earned on solar electric technologies will also count toward the solar electric
5 fraction. The Solar and Renewable Energy Industries believe that the rule already says this,
6 thus no modification is necessary.
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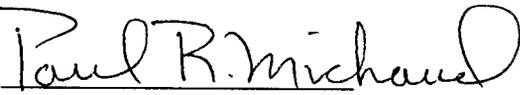
8 Third, New West makes comments that the Environmental Portfolio Standard provides
9 that an energy provider can meet its requirement either by installing qualifying technologies
10 or by purchasing energy or credits from others that have installed qualifying technologies.
11 New West recommends that the rule be modified to define all energy and extra credits as
12 belonging to the person who owns the installation. The owner can, in turn, bank or sell the
13 energy or credits to energy providers who can use them to meet some or their entire
14 Environmental Portfolio Standard requirement. The Solar and Renewable Energy Industries
15 agree with New West's interpretation of the rule in this regard. The Solar and Renewable
16 Energy Industries, however, believe that the rule already says this, thus no modification is
17 necessary.
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19 Lastly, New West makes comments that the terms "independent solar electric
20 generator" and "solar kWh" are not defined. Thus, New West recommends that R14-2-
21 1608(I) be modified to provide that the owner of any facility producing energy or extra credits
22 that satisfy the requirements of the Environmental Portfolio Standard may sell or bank the
23 energy or extra credits for use in meeting a future year requirement. The Solar and
24 Renewable Energy Industries agree with New West's recommendation to the extent that the
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1 terms "independent solar electric generator" and "solar kWh" are not clear under the
2 Environmental Portfolio Standard. The Solar and Renewable Energy Industries, therefore,
3 recommend that the Commission clarify the meaning of "independent solar electric generator"
4 and "solar kWh" within the context of the Environmental Portfolio Standard.

5 DATED this 26th day of October, 2000.

6
7 MARTINEZ & CURTIS, P.C.

8 By 
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10 2712 North Seventh Street
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13 Energy Industries Alliance and
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13
14 **An original and ten copies**
15 **of the foregoing, filed this**
16 **26th day of October, 2000**
17 **with:**

18 Docket Control
19 Arizona Corporation Commission
20 1200 West Washington
21 Phoenix, Arizona 85007

22 **A copy of the foregoing**
23 **mailed this 26th day of**
24 **October, 2000 to:**

25 Mailing list for Docket No. RE-00000C-00-0377
26 1713/documents/reply comments.102600