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Arizona Corporation Commission

BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION DOCUMENT CONTROL

6 IN THE MATTER OF NOTICE OF PROPOSED  
7 RULEMAKING FOR THE ENVIRONMENTAL  
8 PORTFOLIO STANDARD.

DOCKET NO. RE-00000C-00-0377

8 IN THE MATTER OF THE GENERIC  
9 INVESTIGATION OF THE DEVELOPMENT OF A  
10 RENEWABLE PORTFOLIO STANDARD AS A  
11 POTENTIAL PART OF THE RETAIL ELECTRIC  
12 COMPETITION RULES.

DOCKET NO. E-00000A-99-0205

PROCEDURAL ORDER

**BY THE COMMISSION:**

13 On December 21, 2000, the Solar and Renewable Energy Industries (the "Industries") filed a  
14 Motion for Clarification of Decision No. 62506. The Industries requested clarification of the  
15 appropriate date for implementation of the Environmental Portfolio Standard Surcharge, and  
16 advocated for a January 1, 2001 start date.

17 On December 28, 2000, the Arizona Corporation Commission ("Commission") Staff ("Staff")  
18 filed a Response to Motion for Clarification agreeing that the date should be clarified. Staff  
19 recommended that the proposed rules be presented to the Commission for adoption at the earliest  
20 possible time and that in anticipation of their adoption that Affected Utilities and ESPs file  
21 Environmental Portfolio Standard surcharge tariffs in Docket Control by January 8, 2001, so that they  
22 may be considered on the same agenda as the proposed rules.

23 On December 29, 2000, the Arizona Electric Power Cooperative, Inc. ("AEPSCO") filed a  
24 Response to the Motion for clarification, opposing the Industries' position that the surcharge should  
25 be implemented January 1, 2001. AEPSCO argued that Decision No. 62506 did not implement the  
26 surcharge, but rather ordered the commencement of the rulemaking process, and that the Hearing  
27 Division does not have the authority to "affirm" the January 1, 2001 date.

28 On December 27, 2000, Phelps Dodge Corporation and ASARCO, Incorporated (the  
"Companies") filed a Response to the Motion for Clarification. The Companies argued that Decision

1 No. 62506 did not contemplate implementation of any aspect of the Environmental Portfolio  
2 Standard framework prior to the enactment of the rules. The Companies believed that given the  
3 potential for some modification of the rules, including modification of any or all dates, it would be  
4 unwise to implement the surcharge prior to the adoption of the rules.

5 On December 26, 2000, Tucson Electric Power Company ("TEP") filed a Limited Response  
6 to Motion for Clarification. TEP stated that it has been an ardent supported of the Environmental  
7 Portfolio Standard process and has voluntarily commenced funding solar portfolio projects form  
8 previously authorized demand side management budgets. TEP states, however, that it has  
9 understood that it should not assess its customers the surcharge until such time as the associated rules  
10 are in place, and consequently, TEP has not implemented the necessary billing procedures for the  
11 surcharge to start in its January 2001 billings.

12 On January 2, 2001, the Residential Utility Consumers Office ("RUCO") filed its Response to  
13 Motion for Clarification and joined in AEPCO's Response. RUCO noted that the surcharge tariffs  
14 should not be approved and the Environmental Portfolio Standard should not be implemented until  
15 the rule is adopted.

16 The Hearing Division is in the process of drafting a Recommended Order and Opinion  
17 concerning the proposed Environmental Standard Portfolio rules and will issue such Order as soon as  
18 possible, hopefully in time for the January 30 and 31, 2001 Open Meeting. Although the Industries'  
19 request for clarification is not unreasonable, the implementation date for the surcharge is a decision  
20 for the Commission after consideration of public comment. Because the Commission will consider  
21 adoption of the proposed rules in the near future, interested parties should not be prejudiced by not  
22 implementing the surcharge on January 1, 2001. Furthermore, from the comments of Staff and TEP,  
23 it appears that Staff has not yet reviewed, nor the Commission approved, tariffs for the surcharge.

24 Staff has requested that Affected Utilities and ESPs file their proposed Environmental  
25 Portfolio Standard tariffs prior to the Commission's consideration of the rules, so that such tariffs can  
26 become effective as soon as possible assuming the rules are adopted. While such request is  
27 reasonable, we note that such filings can only be based upon the current form of the proposed rules,  
28 and will not become effective unless and until the Commission adopts the rules.

1 IT IS THEREFORE ORDERED that the Industries' Request for Clarification that the  
2 Environmental Portfolio standard surcharge commence on January 1, 2001 is denied.

3 IT IS FURTHER ORDERED that Affected Utilities and ESPs shall file proposed surcharge  
4 tariffs on or before January 10, 2001.

5 DATED this 2nd day of January, 2001.

6  
7   
8 JANE L. RODDA  
9 ACTING CHIEF ADMINISTRATIVE LAW  
10 JUDGE

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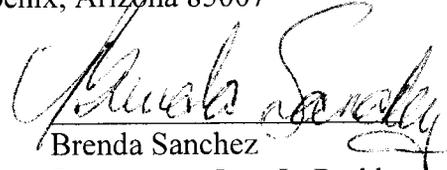
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