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EXCEPTION

ORIGINAL

FOR THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission
WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

DOCKETED

2001 JAN 26 P 3:25

JAN 26 2001

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKETED BY [Signature]

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

IN THE MATTER OF THE GENERIC
INVESTIGATION OF THE DEVELOPMENT
OF A RENEWABLE PORTFOLIO STANDARD
AS A POTENTIAL PART OF THE RETAIL
ELECTRIC COMPETITION RULES.

DOCKET NO. RE-00000C-00-0377

DOCKET NO. E-00000A-99-0205

STAFF'S EXCEPTIONS TO THE PROPOSED ORDER

Staff agrees with the proposed order adopting the Environmental Portfolio Standard Rules, except for the following matters. Staff's comments reflect that it offers these exceptions for clarification of either the order, the rules, or the Concise Explanatory Statement.

I. EXCEPTIONS TO WORDING IN THE PROPOSED ORDER.

Issue 1: The wording of R14-2-1618 B.2. may be confusing to some parties. Some parties may misinterpret this section to say that the portfolio standard requirements may end in 2004.

Comment: Although Staff believes it is clear that R14-2-1618 B.2. only addresses the possible cessation of "annual increases in the portfolio percentage" after 2004, some parties may incorrectly assume that the entire Environmental Portfolio Standard might "go away" or somehow be eliminated on or about 2004.

Staff believes that R14-2-1618 B.2. clearly shows that the Commission would, based on this portion of the rules, only consider whether to "continue the annual increase in the portfolio percentage" as a result of the Environmental Portfolio Cost Evaluation Working Group recommendations. Staff believes that if the Commission chose not to continue the annual increases ...

1 in the portfolio percentage, the rules, as written, call for a frozen portfolio percentage of .8% from
2 2004 until 2012. However, the rules don't explicitly explain this fact.

3 The importance of the permanence of the portfolio standard is significant. If Load
4 Serving Entities believe that they are facing a temporary, four-year (2001-2004) program, they will
5 behave differently than if they are assured that the program will continue through 2012. If Load
6 Serving Entities believe the portfolio is temporary, they will avoid purchase of environmentally
7 friendly and solar generators and will likely only sign short-run (3-4 year) contracts to purchase
8 portfolio kWhs.

9 If Load Serving Entities use this tactic, it will diminish the portfolio standard. The
10 reason is that few, if any, solar developers will build a solar power plant, with a life of 20-30 years,
11 based on a 3-4 year contact. Or, if they do sign such a contract, they will charge much more per kWh
12 than if they have a much longer contract, such as 12 years (2001-2012).

13 **Recommendation:** Staff recommends that the Commission confirm the
14 permanence of the portfolio standard in the wording of the order. Staff suggests the following
15 wording:

16 **Page 3, line 16:** After "cost/benefit point."

17 **INSERT:** "If the Commission does not choose to continue the
18 annual increase of the portfolio percentage after 2004, the
19 portfolio percentage would be frozen at .8% until 2012 or
20 until the Commission chooses to reinstate the annual
21 increases."

22 **Issue 2:** There is a need for common operating procedures and standards to
23 ensure uniform application of the Environmental Portfolio Standard rules.

24 **Comment:** Experience with the implementation of the Retail Electric Competition
25 rules has shown Staff the critical importance of establishing common operating procedures and
26 standards. In the case of the Retail Electric Competition rules, Staff established the Process
27 Standardization Working Group to provide stakeholder input into the development of standardized

28 ...

1 operating procedures. The Commission gave the Director, Utilities Division, the authority to
2 approve the operating procedures and standards for electric competition.

3 Staff believes that similar operating procedures and standards need to be developed
4 and approved in order to implement the Environmental Portfolio Standard.

5 **Recommendation:** Staff recommends that the order in this matter delegate the
6 authority to the Director, Utilities Division, to establish workshops or working groups, if needed, to
7 develop and establish operating procedures and standards for the Environmental Portfolio Standard
8 and that the Director be given the authority to approve the operating procedures and standards. Staff
9 suggests the following wording:

10 **Page 4, line 21.5:**

11 **INSERT:**

12 Staff should work with stakeholders and interested
13 parties to develop operating procedures and standards for the
14 implementation of the Environmental Portfolio Standard. The
15 Director, Utilities Division, shall establish workshops or
16 working groups, as needed, to recommend operating
17 procedures and standards. Operating procedures and
18 standards should include, but are not limited to, the topics of
19 green pricing, green electricity, net metering, net billing, solar
20 leasing, credit trading, sale or trading of excess portfolio
21 kWhs, and other administrative details necessary to
22 implement the portfolio standard. The Director, Utilities
23 Division, shall have the authority to approve the operating
24 procedures and standards.

24 **Page 6, line 19:**

25 **INSERT:**

26 "IT IS FURTHER ORDERED that the Director,
27 Utilities Division, shall establish workshops or working
28 groups, as needed, to recommend operating procedures and
standards for the Environmental Portfolio Standard and that

1 the Director shall have the authority to approve such operating
2 procedures and standards.”

3 **Issue 3: Typographic Errors And Word Changes In Proposed Order.**

4 **Page 3, line 10:**

5 **DELETE:** “1.2”

6 **INSERT:** “1.1”

7 **Page 4, line 2:**

8 **DELETE:** “ESP”

9 **INSERT:** “EPS”

10 **Page 4, line 14:**

11 **DELETE:** “ESP”

12 **INSERT:** “EPS”

13 **II. EXCEPTIONS TO THE WORDING IN THE PROPOSED RULES.**

14 **Issue 4:** R14-2-1618 D calls for reports on solar power “as required by this
15 article.” Unfortunately, when the portfolio was removed from the Retail Electric Competition rules
16 in 1999, the “Reporting Schedule” was retained in the competition rules. Therefore, the
17 Environmental Portfolio Standard does not mention when reports should be submitted. Also, the
18 use of the word “Solar” should be changed to “portfolio” in this subsection.

19 **Comment:** The best way to handle this is to refer to the “Reporting Schedule” in
20 R14-2-1613 B. Change the use of “Solar” to Portfolio” in this subsection.

21 **Recommendation:** Add wording to R14-2-1618 as follows:

22 **Page 15, line 28:**

23 **DELETE:** “solar” in both instances

24 **INSERT:** “portfolio” in both instances

25 **Page 16, line 1:**

26 **DELETE:** “solar” in both instances

27 **INSERT:** “portfolio” in both instances

28 ...

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Page 16, line 2: After “these data.”

INSERT: “Reports shall be made according to the Reporting
Schedule in R14-2-1613 B.”

Issue 5: Typographic Errors And Word Changes In Proposed Order.

Page 12, line 22:

DELETE: “\$0.00875”

INSERT: “\$0.000875”

Page 16, line 7 (R14-2-1618 E):

DELETE: “penalty”

INSERT: “deficiency payment”

Page 16, line 20 (R14-2-1618 G):

DELETE: the 2nd “solar”

INSERT: “environmental”

Page 17, line 25 (R14-2-1618 L):

DELETE: “R14-2-1618 D.1”

INSERT: “R14-2-1618 C.1”

Page 17, line 26 (R14-2-1618 L):

DELETE: “R14-2-1618 D.2.b.”

INSERT: “R14-2-1618 C.2.b.”

Page 18, line 2.5 (R14-2-1618 M):

DELETE: “R14-2-1618 D.1”

INSERT: “R14-2-1618 C.1”

Page 18, line 3.5 (R14-2-1618 M):

DELETE: “R14-2-1618 D.2.b.”

INSERT: “R14-2-1618 C.2.b.”

1 **III. EXCEPTIONS TO THE CONCISE EXPLANATORY STATEMENT.**

2 **Page 19, line 18:**

3 **DELETE:** "\$0.00875"

4 **INSERT:** "\$0.000875"

5 **Page 31, line 25:**

6 **DELETE:** "nether"

7 **INSERT:** "neither"

8 **CONCLUSION**

9 Staff requests that the Commission adopt the recommendations discussed above to
10 clarify the order, rules, and concise explanatory statement. Attached are Staff's proposed
11 amendments to reflect these exceptions.

12 RESPECTFULLY SUBMITTED this 026th day of January, 2001.

13
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17 Arizona Corporation Commission
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2 were delivered this 026th day of January, 2001 to:

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4 Arizona Corporation Commission
5 1200 West Washington Street
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THIS AMENDMENT:			
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Failed _____	Not Offered _____	Withdrawn _____	

UTILITIES DIVISION PROPOSED AMENDMENT # 1

TIME/DATE PREPARED: 3:00 p.m. – 01/26/01

COMPANY: Proposed Rulemaking AGENDA ITEM NO. U-2

DOCKET NO. RE-00000C-00-0377 OPEN MEETING DATE: 01/30/01 – 01/31/01

=====

RE: PROPOSED ORDER

Page 3, line 10:

DELETE: "1.2"

INSERT: "1.1"

Page 3, line 16: After "cost/benefit point."

INSERT: "If the Commission does not choose to continue the annual increase of the portfolio percentage after 2004, the portfolio percentage would be frozen at .8% until 2012 or until the Commission chooses to reinstate the annual increases."

Page 4, line 2:

DELETE: "ESP"

INSERT: "EPS"

Page 4, line 14:

DELETE: "ESP"

INSERT: "EPS"

THIS AMENDMENT:			
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_____ Failed _____	Not Offered _____		

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COMPANY: Proposed Rulemaking AGENDA ITEM NO. U-2

DOCKET NO. RE-00000C-00-0377 OPEN MEETING DATE: 01/30/01 – 01/31/01

=====

RE: PROPOSED ORDER (continued)

Page 4, line 21.5:

INSERT: Staff should work with stakeholders and interested parties to develop operating procedures and standards for the implementation of the Environmental Portfolio Standard. The Director, Utilities Division, shall establish workshops or working groups, as needed, to recommend operating procedures and standards. Operating procedures and standards should include, but are not limited to, the topics of green pricing, green electricity, net metering, net billing, solar leasing, credit trading, sale or trading of excess portfolio kWhs, and other administrative details necessary to implement the portfolio standard. The Director, Utilities Division, shall have the authority to approve the operating procedures and standards.

Page 6, line 19:

INSERT: "IT IS FURTHER ORDERED that the Director, Utilities Division, shall establish workshops or working groups, as needed, to recommend operating procedures and standards for the Environmental Portfolio Standard and that the Director shall have the authority to approve such operating procedures and standards."

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Failed _____	Not Offered _____	Withdrawn _____	

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DOCKET NO. RE-00000C-00-0377 OPEN MEETING DATE: 01/30/01 – 01/31/01

=====

RE: PROPOSED RULES

Page 12, line 22:

DELETE: "\$0.00875" and **INSERT:** "\$0.000875"

Page 15, line 28:

DELETE: "solar" in both instances
INSERT: "portfolio" in both instances

Page 16, line 1:

DELETE: "solar" in both instances
INSERT: "portfolio" in both instances

Page 16, line 2: After "these data."

INSERT: "Reports shall be made according to the Reporting Schedule in R14-2-1613 B."

Page 16, line 7 (R14-2-1618 E):

DELETE: "penalty"
INSERT: "deficiency payment"

THIS AMENDMENT:			
<input type="checkbox"/> Passed	<input type="checkbox"/> Passed as amended by		
<input type="checkbox"/> Failed	<input type="checkbox"/> Not Offered	<input type="checkbox"/> Withdrawn	

UTILITIES DIVISION PROPOSED AMENDMENT # 1

TIME/DATE PREPARED: 3:00 p.m. – 01/26/01

COMPANY: Proposed Rulemaking AGENDA ITEM NO. U-2

DOCKET NO. RE-00000C-00-0377 OPEN MEETING DATE: 01/30/01 – 01/31/01

=====

RE: PROPOSED RULES (continued)

Page 16, line 20 (R14-2-1618 G):

DELETE: the 2nd “solar”

INSERT: “environmental”

Page 17, line 25 (R14-2-1618 L):

DELETE: “R14-2-1618 D.1”

INSERT: “R14-2-1618 C.1”

Page 17, line 26 (R14-2-1618 L):

DELETE: “R14-2-1618 D.2.b.”

INSERT: “R14-2-1618 C.2.b.”

Page 18, line 2.5 (R14-2-1618 M):

DELETE: “R14-2-1618 D.1”

INSERT: “R14-2-1618 C.1”

Page 18, line 3.5 (R14-2-1618 M):

DELETE: “R14-2-1618 D.2.b.”

INSERT: “R14-2-1618 C.2.b.”

THIS AMENDMENT:			
Passed _____	Passed as amended by _____		
Failed _____	Not Offered _____	Withdrawn _____	

UTILITIES DIVISION PROPOSED AMENDMENT # 1

TIME/DATE PREPARED: 3:00 p.m. – 01/26/01

COMPANY: Proposed Rulemaking AGENDA ITEM NO. U-2

DOCKET NO. RE-00000C-00-0377 OPEN MEETING DATE: 01/30/01 – 01/31/01

=====

RE: CONCISE EXPLANATORY STATEMENT

Page 19, line 18:

DELETE: "\$0.00875"

INSERT: "\$0.000875"

Page 31, line 25:

DELETE: "nether"

INSERT: "neither"