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EXCEPTION

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Arizona Corporation Commission ARIZONA CORPORATION COMMISSION

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WILLIAM A. MUNDT  
CHAIRMAN  
JAN 25 2001  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

DOCKETED BY  
JM

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

DOCKET NO. RE-00000C-00-0377

**EXCEPTIONS OF ARIZONA PUBLIC SERVICE COMPANY**

Arizona Public Service Company ("APS" or "Company") hereby submits its Exceptions to the Recommended Opinion and Order ("Recommended Order") dated January 17, 2001 in the above-captioned matter. Although APS has long supported and continues to support the development and use of renewable resources, there are several implementation issues raised by the Proposed Environmental Portfolio Standard regulation ("Proposed EPS Rule") that should be addressed by the Arizona Corporation Commission ("Commission") prior to its final approval.

These include:

- effective date of the EPS
- unmetered services
- utility-financed customer-premise environmentally-friendly resources
- out-of-state environmentally-friendly resources

**EFFECTIVE DATE**

In Section A of the Proposed EPS Rule, the EPS is made effective "[S]tarting on January 1, 2001, or upon approval of its Environmental Portfolio Standard tariff, whichever is later . . ."

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1 Since January 1, 2001 has already passed, the first clause of this sentence is moot and should be  
2 eliminated to avoid confusion. The alternative effective date (“upon Commission approval of its  
3 Environmental Portfolio Standard tariff”) fails to recognize that in the proposed Staff orders  
4 approving the EPS surcharge tariff of APS and the other Affected Utilities, there is a 45-day lag  
5 in actual implementation of the surcharge. Moreover, that 45-day period could be further  
6 lengthened if the Commission determines that the Proposed EPS Rule itself requires certification  
7 by the Arizona Attorney General. APS would therefore suggest the following alternative  
8 language:

9                   Upon the effective implementation of a Commission-approved  
10 Environmental Portfolio Standard Surcharge tariff, any Load-Serving Entity . . .

#### 11                   **UNMETERED SERVICES**

12                   APS is aware that the Recommended Order adopts the Company’s own proposed  
13 language with regard to the implementation of the EPS Surcharge for unmetered electric services.  
14 However, discussions with Staff indicate that there still appears to be some confusion as to how  
15 the surcharge will be calculated in such instances. APS therefore proposes to add an additional  
16 sentence at the end of Proposed EPS Rule 1618.A.2:

17                   In the case of unmetered services, the Load-Serving Entity shall, for purposes of  
18 billing the Environmental Portfolio Standard Surcharge and subject to the caps set  
19 forth above, use the lesser of: (i) the estimated kWh required to provide the service  
20 in question; or (ii) the service’s contract kWh.

#### 21                   **UTILITY-FINANCED CUSTOMER-PREMISE 22 ENVIRONMENTALLY-FRIENDLY RESOURCES**

23                   Proposed EPS Rule 1618.C.3.a. would allow a Load-Serving Entity to claim an extra  
24 credit multiplier if a customer-premise installation of a qualifying technology was financed by or  
25 paid for by the Load-Serving Entity.<sup>1</sup> Later in the Proposed EPS Rule, credit for any customer-

26 <sup>1</sup> There are other criteria by which a Load-Serving Entity might also receive extra credits, as set forth in Proposed EPS Rule 1618.C.3.b.-d. However, these alternative scenarios do not raise the same issue as discussed in this section of the Company’s Exceptions.

1 premise equipment is given to the then Load-Serving Entity of the customer, even if it was a  
2 different Load-Serving Entity that paid for or financed the equipment. *See* Proposed EPS Rule  
3 1618.F. This is simply unfair and will discourage utilities from financing customer-owned  
4 distributed facilities. If APS finances or purchases customer-premise equipment within the  
5 requirements of Proposed EPS Rule 1618.C.3.a., why should that customer's competitive ESP be  
6 permitted to receive EPS credits if the customer later chooses Direct Access? Similarly, why  
7 should APS receive the credits paid for or financed by a competitive ESP simply because the  
8 customer later returns to Standard Offer? Proposed ESP Rule 1618.F. should be changed to read:

9           Photovoltaic or solar thermal electric resources that are located on a  
10 customer's premises shall count toward the Environmental Portfolio Standard  
11 applicable to the current Load-Serving Entity serving that consumer unless  
12 a different Load Serving Entity is entitled to receive credit for such resources  
13 under the provisions of R14-2-1618.C.3.a.<sup>2</sup>

#### 14           **OUT-OF-STATE ENVIRONMENTALLY-FRIENDLY RESOURCES**

15           Proposed EPS Rule 1618.M. appears to limit eligibility of environmentally-friendly  
16 resources to Arizona-based facilities. Although APS supports the concept of an Economic  
17 Development Extra Credit Multiplier as set forth in Proposed EPS Rule 1618.C.2., there was  
18 never any agreement by the affected parties to totally eliminate out-of-state suppliers of otherwise  
19 eligible non-solar resources from the EPS, excepting in the case of landfill gas.<sup>3</sup> Indeed, such an  
20 outright ban on out-of-state suppliers would appear to raise unnecessary Commerce Clause  
21 implications. APS would modify Proposed EPS Rule 1618.M to read:

22           Consistent with the percentage phase-in schedule in R14-2-1618.B.3.,  
23 a Load-Serving Entity shall be entitled to meet the Environmental Portfolio  
24 Standard with electricity produced by other environmentally-friendly renewable  
25 electricity technologies, hereby defined as wind generators, biomass generators,  
26

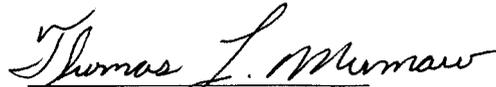
27 <sup>2</sup> At several locations, including this section of the Proposed EPS Rule, the term "solar portfolio standard"  
28 has survived from previous versions of the rule. It is perhaps appropriate for a universal substitution of the  
29 current term "Environmental Portfolio Standard."

30 <sup>3</sup> Even the limitation of the EPS to in-state landfill gas projects appears to be an unwarranted  
31 discrimination against out-of-state resources, but it is at least a limitation that was addressed in the prior  
32 proceedings on the EPS.

1 and in-state landfill gas generators, in addition to the solar electric and solar thermal  
2 technologies described in R14-2-1618.A and R14-2-1618.L Systems using such  
3 technologies shall be eligible for Early Installation Extra Credit Multipliers as  
4 defined in R14-2-1618.C.1. and, if otherwise eligible, the Solar Economic  
5 Development Extra Credit Multipliers as defined in R14-2-1618.C.2.b.<sup>4</sup>

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RESPECTFULLY SUBMITTED this 25th day of January, 2001.

SNELL & WILMER

  
Thomas L. Mumaw

Attorneys for Arizona Public  
Service Company

Original and ten copies of the  
foregoing filed this 25th day  
of January, 2001, with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

Copy of the foregoing mailed,  
e-mailed or hand-delivered  
this 25th day of January,  
2001, to:

All parties of record.



Sharon Madden

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<sup>4</sup> The references in this Section of the Proposed EPS Rule to other provisions in the Rule have been corrected to reflect the elimination of former R14-2-1618.C. R14-2-1619.L. requires the same correction.