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AZ CORP COMMISSION
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IN THE MATTER OF THE GENERIC
PROCEEDING CONCERNING
ELECTRIC RESTRUCTURING ISSUES.

Docket No. E-00000A-02-0051

IN THE MATTER OF THE GENERIC
PROCEEDING CONCERNING THE
ARIZONA INDEPENDENT
SCHEDULING ADMINISTRATOR.

Docket No. E-00000A-01-0630

**ARIZONA MUNICIPAL POWER
USERS' ASSOCIATION NOTICE OF
FILING LETTER FROM APPA TO
THE SENATE ENERGY AND
NATURAL RESOURCES
COMMITTEE**

Arizona Municipal Power Users' Association ("AMPUA") hereby gives notice of filing of correspondence dated June 3, 2009 from the American Public Power Association ("APPA") to the Senate Energy and Natural Resources Committee supporting a workable federal renewable electricity standard ("RES") mandate of no more than 15 percent by 2020 that includes provisions to: minimize costs to consumers; address grid reliability; provide for Congress to review the need for such legislation once a federal mandate to reduce greenhouse gas emissions is enacted; and allows for the deployment of energy efficiency measures to meet the standard, among other important issues. The correspondence includes a copy of APPA Resolution 09-02.

Arizona Corporation Commission
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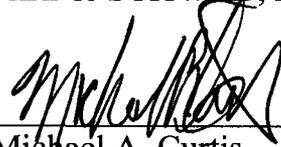
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DATED this 5 day of June, 2009.

CURTIS, GOODWIN, SULLIVAN,
UDALL & SCHWAB, P.L.C.

By: 
Michael A. Curtis
501 East Thomas Road
Phoenix, Arizona 85012-3205
Attorney for Arizona Municipal
Power Users' Association

PROOF OF AND CERTIFICATE OF MAILING

I hereby certify that on this 5th day of June, 2009, I caused the foregoing document to be served on the Arizona Corporation Commission by delivering the original and ~~thirteen (13)~~ ^{fifteen 15} copies of the above to:

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


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June 3, 2009

Chairman Jeff Bingaman
Senate Energy and
Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Lisa Murkowski
Senate Energy and
Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Bingaman and Ranking Member Murkowski:

I am writing on behalf of the American Public Power Association (APPA), the national service organization representing the interests of over 2,000 municipal and other state- and locally-owned electric utilities throughout the United States (all but Hawaii). Collectively, public power utilities deliver electricity to one of every seven electricity consumers (approximately 45 million people), serving some of the nation's largest cities. However, the vast majority of APPA's members serve communities with populations of 10,000 people or less.

While there are many important and controversial questions facing the 111th Congress, one of the most important to the electric utility industry is potential passage of a federal renewable electricity standard (RES). **APPA supports a workable federal RES mandate of no more than 15 percent by 2020** that includes provisions to: minimize costs to consumers; address grid reliability; provide for Congress to review the need for such legislation once a federal mandate to reduce greenhouse gas emissions is enacted; and allows for the deployment of energy efficiency measures to meet the standard, among other important issues.

We also want to underscore that public power utilities do not have a federal incentive in place for higher cost renewable energy comparable to what the private, investor-owned utilities receive in the form of the production tax credit. While we appreciate that the Energy and Natural Resources Committee does not have jurisdiction over tax or appropriations measures, we nonetheless would urge the Committee and its members to seek such a comparable incentive through both the tax writing and appropriations processes (in the form of significant Clean Renewable Energy Bond authority and/or significant additional funding for the Renewable Energy Production Incentive) so that, in complying with the RES, public power utilities and their customers are not disadvantaged compared to private sector companies.

We believe that a workable RES would provide significant environmental and energy security benefits. At the same time, we believe an RES of 15 percent by 2020 is the maximum that this economy, electricity consumers, and the electric transmission grid can accommodate in the next 10 years. Some, however, have asserted that a 15 percent federal RES by 2020 is not aggressive enough and have proposed requirements as high as 25 percent. These proposals are in part justified with claims that a 25 percent RES will actually lower electricity bills, as well as create thousands of new

jobs and somehow resolve the unavailability of substantial amounts of renewable resources in certain regions of the country.

Such claims are counter-intuitive and should be considered carefully and with great skepticism. The fact is that renewable energy resources are simply more expensive to develop than most alternatives and will be for the foreseeable future, no matter what the scale of such development. That is precisely why Congress is considering mandating them and why Congress has provided significant financial incentives for their development over the past several years: so that development will actually occur despite their higher cost. Cost increases associated with an RES will pose special challenges for low- and moderate- income households as these consumers tend to spend a larger share of their budgets on energy related products and services. Increased costs will be even more of a problem if an RES is combined with, or soon followed by, climate change legislation, which will have yet additional costs for the consumer. In addition, electricity consumers in regions where wholesale electricity markets are operated by regional transmission organizations or independent system operators under the supervision of the Federal Energy Regulatory Commission (regions where many consumers are already facing electricity bills that look more like mortgage payments) will pay even more due to the flawed design and operation of those markets.

Finally, the intermittent nature of some renewable resources (such as wind and solar) poses challenges to transmission grid reliability as a higher proportion of this type of generation comes online. Electricity must be generated and transmitted instantaneously to meet customer demand, which requires a majority of electric generating facilities to be available 24/7. Because the wind doesn't always blow and the sun doesn't always shine, even as forecast, other types of generation – most often using natural gas - must be available to back up these resources. The engineers operating the transmission systems report that, given existing technology and capacity constraints, 15 percent of the grid relying on these resources is more manageable from an operational standpoint than a higher number and will ensure greater stability of the grid in the future. We understand that Congress is also considering new policies designed to spur grid expansion and enhancements, but those proposals are still in the developmental stages and, even if enacted, it will take many years to site, design and construct the actual facilities.

For these reasons and those set forth in the attached policy resolution, APPA believes our support for a workable 15 percent federal RES by 2020 strikes the appropriate balance to allow Congress to move forward on this important issue, and APPA will oppose any attempts to raise the RES percentage above 15% in the upcoming Senate Energy and Natural Resources Committee mark-up.

APPA will also oppose attempts to include an additional energy efficiency resource standard. We believe that energy efficiency is an important tool in reducing carbon and energy use, and public power utilities have been industry leaders deploying energy efficiency programs. However, adding a separate energy efficiency standard on top of an RES is guaranteed to raise costs to consumers, and has a questionable effect on reducing greenhouse gas emissions. APPA will also oppose attempts to increase alternative compliance payments for this same reason, as well as any other amendments or provisions that conflict with our attached policy resolution.

Thank you for your consideration of APPA's views on this matter and please do not hesitate to contact us should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Crisson". The signature is written in a cursive style with a large initial "M" and a long horizontal stroke at the end.

Mark Crisson
President and CEO

Attachment

Senator	Amendment
Barrasso	Amends definition of biomass so biomass is counted as renewable energy
Barrasso	Removes from the baseline energy made from fossil fuels equal to the amount of greenhouse gasses captured and sequestered by that facility
Barrasso	Adds electricity generated from a CCS facility to definition of "renewable energy"
Barrasso	Strikes the definition of "conservation forestland"
Barrasso	Includes certain wilderness study areas in the definition of "Federal land"
Barrasso	Defines "renewable biomass" the same way as "biomass" in EPA Act 05
Bayh	Removes section on State Renewable Energy Account, specifies that alternative compliance payments can be paid to meet requirements of bill and should go directly to the state to use for the purposes of increasing renewable energy, promoting electric drive vehicles and batteries, and offsetting consumer costs
Bunning	Removes from the baseline energy made from fossil fuels equal to the amount of greenhouse gasses captured and sequestered by that facility
Bunning	Includes electricity generated from clean coal in the definition of "renewable energy"
Bunning	Amends bill to include electricity generated from clean coal in the definition of "existing renewable energy" and "new renewable energy"
Bunning	Amends bill to include electricity generated from coal-mined methane to be included in definition of "existing renewable energy" and "new renewable energy"
Bunning	Would include refined coal in the definition of "renewable energy"
Bunning	Would include refined coal in the definition of "existing renewable energy" and "new renewable energy"
Bunning	Would permit State Renewable Energy Accounts to be used to increase the quantity of electric energy produced from nuclear and advanced coal technologies for carbon capture and sequestration
Burr	Would include electricity generated from nuclear power to be included in definition of "existing renewable energy" and "new renewable energy"
Burr	Would include nuclear power in definition of "renewable energy"
Cantwell	Creates a loan fund to help utilities comply with the RES
Corker	Governor can petition for a State's utilities' entire RES to be met with energy efficiency credits, and would allow any utility in the power service area of the TVA to meet RES using energy efficiency credits
Corker	Gives utilities the option to meet RES using energy efficiency credits (without Governor's petition)

Corker	Changes incremental hydropower date to 1992; adds "incremental hydropower" to be counted as "new renewable energy" when produced above the average generation during the period beginning Jan 1 2004--Jan 1 2006.
Corker	Term "existing renewable energy" does not include incremental hydropower; adds "incremental hydropower" to be counted as "new renewable energy" when produced above the average generation during the period beginning Jan 1 2004--Jan 1 2006.
Corker	removes all nuclear power from baseline
Corker	removes new nuclear power from baseline
Dorgan	raises minimum annual percentage for compliance targets to 20% by 2020 (and higher targets each year before that) and lowers percentage that can be met through energy efficiency from 26.67% to 25%
Dorgan	Increases the alternative compliance payment rate from 2.1 cents to 3 cents
Dorgan	Would treat alternative compliance payments and civil penalties deposited in the State Renewable Energy Account as offsetting collections
Lincoln	Would eliminate distinction between "existing renewable energy" and "new renewable energy"
Menendez	Removes ability to meet RES using energy efficiency credits and adds an Energy Efficiency Resource Standard to the bill
Murkowski	Adds to the definition of "qualified hydropower" small hydroelectric facilities that produce less than 50 megawatts, energy from pumped storage, and energy from lake tap
Murkowski	For the first five years after enactment of the bill 100% of the RES can be met through energy efficiency credits
Murkowski	Includes electricity generated from hydropower in the definitions of "existing renewable energy" and "new renewable energy"
Murkowski	Would include electric energy generated from hydropower in the definition of "renewable energy"
Murkowski	Defines "Indian land" by its definition in EPAAct92
Murkowski	Amends bill to say that the Secretary shall issue renewable energy credits to generators of electric energy from new renewable energy <i>regardless of whether the energy is transmitted over the national interstate transmission system</i> (italicized part added by amendment)
Murkowski	Removes from baseline energy from new nuclear facilities and additional energy from existing nuclear facilities as a result of efficiency improvements or capacity additions made on or after the date of enactment
Murkowski	Sunsets the bill upon enactment of a bill to regulate limits of carbon dioxide or greenhouse gas emissions or by December 31, 2039, whichever comes first

Murkowski	Amends bill to allow State PUC or electric utility to submit an application to the Secretary that requests a variance from the RES (including suspension or reduction of requirements) for one or more calendar years on the basis of transmission constraints preventing delivery of service
Murkowski	Adds to the definition of "new renewable energy" "another renewable energy source based on innovative technology, as determined by the Secretary through rulemaking"
Risch	Expands the definition of biomass in EAct05
Sanders	Requires study of annual projections of aggregate quantity of renewable electricity generated by US
Sanders	Establishes National Commission on Sustainable and Renewable Energy Development to study barriers to renewable generation and make recommendations to the President and to Congress
Sessions	Strikes RES title
Shaheen	Creates telescoping renewable electricity credit so that the higher the efficiency the the higher the renewable energy credit is for the same amount of renewable output
Shaheen	Strikes inventoried roadless areas from the Federal land exemption
Stabenow	Biogas
Stabenow	Defines "affiliate" and amends utility size threshold to say the following: ...that sold less than 4 million megawatt hours of electric energy to electric consumers during the preceding calendar year; <i>provided that sales to an affiliate, lessee, or tenant of such electric utility shall not be treated as sales to electric consumers.</i> (italicized part added by amendment)
Udall	Strikes energy efficiency credits, requiring entire standard to be met using renewable energy and changes the targets to 25% by 2025.
Wyden	Adds qualified waste-to-energy to definition of "renewable energy"

Sponsors: Heartland Consumers Power District, JEA

In Support of a Workable Federal Renewable Electricity Standard

1 The public policy question of whether or not Congress should enact a federal mandatory
2 renewable electricity standard (RES) is extremely challenging. While the American
3 Public Power Association (APPA) strongly supports the development of energy from
4 renewable sources, we have not supported a federal mandate in the past because we have
5 argued that this is an issue that should be handled at the state and local levels.
6 Furthermore, states and localities have been aggressively developing more renewable
7 energy based on their unique circumstances and resource availability. Unfortunately,
8 Congress has been unwilling to provide public power utilities with federal support for
9 development of renewable resources that is comparable to the incentives provided to
10 private companies. However, recognizing that a federal renewable electricity standard
11 (RES) is highly likely to be approved by Congress and signed into law in the near future,
12 APPA has determined that it is best to support the concept, but to at the same time urge
13 Congress to pass the most workable, efficient and least-cost framework for the federal
14 standard.

15

16 APPA's concerns about a federal renewable electricity standard should not be interpreted
17 as lack of support for maximizing the development of our nation's renewable resources.

18 We fully understand and appreciate the benefits that would be so achieved. Evidence of
19 public power's commitment to renewable energy resources is apparent from the fact that
20 in 2005 public power utilities were among the highest ranked utilities of all types offering

21 green power programs nationally, according to the Department of Energy's National
22 Renewable Energy Laboratory. In addition, in the states that have adopted RES
23 requirements, public power electric utilities have in some cases pledged to meet or
24 exceed those standards, even when they are not directly subject to the state RES laws.

25

26 APPA also believes the possible consequences of a national RES on reliability and
27 consumer costs should be considered carefully, and that Congress should be open to
28 adjustments of the targets and timelines of the RES if the costs of compliance become
29 excessive or the reliable operation of the grid is jeopardized. Wind and solar are
30 inherently intermittent resources while our economy demands that electricity be available
31 with near 100% reliability on a 24/7 basis to protect public health and safety. To deal
32 with this, additional generation resources must be available to meet electric load
33 requirements or utilities must be prepared to purchase credits from renewable generators
34 or (possibly) the federal government.

35

36 In addition, a federal RES mandate is clearly related to the issue of climate change and
37 has been viewed as a way to significantly reduce greenhouse gas (GHG) emissions.

38 Therefore, a national RES program adopted today in an effort to reduce GHG emissions
39 may well be redundant when Congress also enacts a mandatory program to achieve the
40 same purpose at some point in the future. Requiring utilities to meet both the RES
41 requirement and mandatory reductions in GHG emissions could in effect amount to a
42 "double whammy," placing a significantly greater burden on electric utilities relative to
43 other sectors of the economy. Additionally, future compliance with potential greenhouse

44 gas emissions regulation may involve actions that are more cost-effective than an RES.
45 If we are to address the problem of climate change, and APPA believes that we should,
46 we should do so in a way that those who contribute to the problem will be responsible for
47 a proportionate contribution to the solution.

48

49 Finally, as mentioned above, while private companies may be able to absorb some of the
50 additional costs likely from the RES mandate by reducing dividends paid to their
51 stockholders, not-for-profit public power systems have no choice but to pass increased
52 costs on to their customers in the form of higher rates. It is therefore extremely critical
53 for us to be able to take advantage of fully comparable incentives, like those provided in
54 the Clean Renewable Energy Bond (CREB) and Renewable Energy Production Incentive
55 (REPI) programs, and others, to use these more expensive renewable resources.

56

57 **NOW, THEREFORE BE IT RESOLVED:** that the American Public Power
58 Association (APPA) supports the establishment of federal requirements for the
59 production of electricity from renewable energy sources, as long as such requirements
60 adhere to the following principles and criteria:

61

- 62 • The requirement is: 1) based on retail sales of electricity; 2) applicable only to
63 large retail sellers of electricity; and 3) set at a level that does not exceed 15%
64 and does not require full compliance before 2020;
- 65 • Federal support for the development of renewable energy, such as Clean
66 Renewable Energy Bonds, the Renewable Energy Production Incentive, fully

67 tradable tax credits, and other programs, is provided to public power utilities
68 at a level that is comparable to the support provided to private developers of
69 renewable energy through programs such as the production tax credit and
70 others;

- 71 • The legislation allows as eligible for compliance the broadest range of
72 renewable energy resources, including those allowed under state renewable
73 energy requirements such as animal waste biomass, incremental hydropower,
74 and new hydropower added at existing hydro and non-hydro dams;
- 75 • The legislation allows a significant portion of the requirement to be met
76 through energy efficiency measures, both utility system efficiencies and
77 customer-based programs, including any such measures allowed under similar
78 state requirements;
- 79 • The legislation permits banking of excess credits to meet future year
80 requirements;
- 81 • At a minimum, existing hydropower and municipal solid waste resources,
82 including those owned by the federal government are excluded from the
83 calculation of the baseline against which the renewable energy requirement is
84 applied;
- 85 • The legislation ensures that any credits that accrue to federally-owned
86 generation marketed by the power marketing administrations (PMAs),
87 including both existing generation and additions, either are provided directly
88 to the PMA customers affected by federal or state RES standards
89 commensurate with their allocations of federally-generated power or sold with

90 proceeds going to repayment of affected projects as determined by federal
91 power costumers in such marketing areas;

- 92 • Provisions are included allowing for alternative compliance in the form of
93 reasonable cash payments on a per-kilowatt hour basis that corresponds to the
94 value of the renewable energy production tax credit, and requiring such funds
95 to be returned to the retail electricity suppliers subject to the federal standard ;
- 96 • Existing state programs are integrated with the federal RES to the fullest
97 extent possible so that affected utilities have only one standard to meet -- the
98 federal compliance obligation should not be additive. States, however, would
99 be allowed to establish additional requirements beyond the federal
100 requirements if they chose to do so;
- 101 • The legislation allows all existing qualifying renewable energy facilities and
102 energy efficiency programs to be used to meet a utility's compliance
103 obligation;
- 104 • The Secretary of Energy is authorized to provide waivers of compliance or
105 penalties on a case-by-case basis based on criteria to be established, including,
106 but not limited to, the effects of natural disasters, the recognition of utilities in
107 "negative load growth" circumstances and other economic, operational and
108 contractual impacts, and delays in relevant federal permitting approvals,
109 among others;
- 110 • Existing contracts for renewable energy certificates are fully protected and not
111 abrogated, diminished, or impaired;

- 112
- Provisions are included that make clear the oversight and regulation of any
113 related renewable energy credit market;
 - The legislation must require periodic, multi-agency reports to Congress --
114 with the first one due no later than three years after enactment -- on the
115 implementation of the RES with respect to various factors such as the impact
116 on the reliable operation of the electric grid, the ability of the grid to
117 accommodate such an increase in intermittent resources, and the costs to
118 consumers; and
 - The legislation must acknowledge the link between a federal electricity
120 standard and any subsequent adoption of federal legislation to address climate
121 change through reduction of greenhouse gas (GHG) emissions by requiring
122 Congress to re-examine the renewable electricity requirement's continuing
123 necessity in light of the new GHG emission reduction scheme.
124