

OPEN MEETING



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ORIGINAL

MEMORANDUM RECEIVED

Arizona Corporation Commission

DOCKETED

TO: THE COMMISSION

2009 JUL 15 P 2: 06

FROM: Utilities Division

AZ CORP COMMISSION
DOCKET CONTROL

JUL 15 2009

DATE: July 15, 2009

DOCKETED BY	
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RE: ARIZONA PUBLIC SERVICE COMPANY - REQUEST FOR CLARIFICATION OF THE APPLICATION OF THE AMERICAN RECOVERY AND RENEWAL ACT OF 2009 FUNDING TO ARIZONA PUBLIC SERVICE COMPANY'S DEMAND-SIDE MANAGEMENT INCENTIVES (DOCKET NO. E-01345A-09-0216)

On May 8, 2009, Arizona Public Service Company ("APS") filed a request for clarification regarding the impact of the American Recovery and Reinvestment Act of 2009 ("ARRA") funding on the payment of incentives through APS' demand-side management ("DSM") programs.

ARRA is federal legislation, passed by Congress in February 2009, to stimulate investment, create jobs, and speed economic recovery. ARRA provides for over \$18 billion in energy efficiency funding. The primary objectives of the energy efficiency funding are to build jobs, save energy, and build energy efficiency infrastructure for the long term. The State Energy Program ("SEP"), managed by the State Energy Offices, was allocated \$3.1 billion.

The Arizona Energy Office ("AEO") filed an application for \$55.447 million of SEP funding and has already been awarded half of the funds. The remaining 50 percent of the SEP funds will be awarded after the state demonstrates successful implementation of its plan. Among other items, the AEO SEP plan includes \$10 million for the State Building Energy Performance Contracting Program and \$20 million for the Energy Efficiency and Renewable Energy in Schools Grant Program. SEP funds are not to replace existing funding. Both state buildings and schools are eligible to receive incentives under APS' nonresidential DSM programs.

Another type of energy efficiency funding from ARRA is Energy Efficiency and Conservation Block Grants which will provide \$64 million directly to cities and counties. Cities and counties in APS' service area are also eligible to receive incentives under APS' nonresidential DSM programs. Other ARRA funds may also become available for incentives to APS customers.

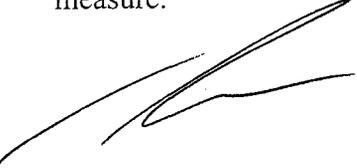
On December 11, 2008, the Commission issued Decision No. 70637, which approved five of APS' non-residential DSM programs. Decision No. 70637 included the following provision (page 10, lines 15 1/2 through 19 1/5):

"14. APS shall continually research and monitor other energy-efficiency rebates and incentives, including tax credits, that may be available to its Non-Residential DSM program participants throughout its service territory; and that the Company shall limit its incentive payments to program participants to ensure that the sum of all known monetary incentives, either paid or available to APS program participants from other entities for the same measure, is limited to APS' established measure cap, such as 50 percent or 75 percent of incremental cost, unless a different cap is ordered by the Commission,"

APS does not know whether the ARRA funding would be considered a rebate, incentive, or tax credit as intended by the language in Decision No. 70637. APS requests that the Commission clarify whether ARRA funds are outside of the intent of Decision No. 70637, so that the ARRA payments do not need to be taken into consideration when determining the amount of the DSM incentive that is paid to a customer.

ARRA funding did not exist at the time that the Commission issued Decision No. 70637; therefore, the ARRA funds were not considered when establishing the caps on incentives through APS' DSM programs. Under the language in Decision No. 70637, APS may have to reduce its incentive to a customer to allow the customer to also receive an incentive resulting from ARRA in order to keep the sum of the two incentives under the established cap. However, ARRA does not allow utility funds to be replaced by ARRA funds. Without an adjustment to the established cap, the customer may not be able to receive the ARRA incentive.

The language in Decision No. 70637 includes the phrase "unless a different cap is ordered by the Commission." Staff believes that the incentive caps in APS' nonresidential DSM programs should remain in place, but that the ARRA incentives should be allowed to supplement the APS DSM incentives without supplanting them. Therefore, Staff recommends that ARRA funds should not be subject to the existing DSM incentive caps, but that the sum of all incentives, including ARRA, should not exceed 100 percent of the incremental cost of the measure.



Ernest G. Johnson
Director
Utilities Division

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ORIGINATOR: Barbara Keene

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BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES
Chairman

GARY PIERCE
Commissioner

PAUL NEWMAN
Commissioner

SANDRA D. KENNEDY
Commissioner

BOB STUMP
Commissioner

IN THE MATTER OF THE REQUEST OF
ARIZONA PUBLIC SERVICE COMPANY
FOR CLARIFICATION OF THE
APPLICATION OF THE AMERICAN
RECOVERY AND RENEWAL ACT OF
2009 FUNDING TO ARIZONA PUBLIC
SERVICE COMPANY'S DEMAND-SIDE
MANAGEMENT INCENTIVES

DOCKET NO. E-01345A-09-0216

DECISION NO. _____

ORDER

Open Meeting
July 28 and 29, 2009
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Arizona Public Service Company ("APS") is certificated to provide electric service as a public service corporation in the State of Arizona.
2. On May 8, 2009, APS filed a request for clarification regarding the impact of the American Recovery and Reinvestment Act of 2009 ("ARRA") funding on the payment of incentives through APS' demand-side management ("DSM") programs.
3. ARRA is federal legislation, passed by Congress in February 2009, to stimulate investment, create jobs, and speed economic recovery. ARRA provides for over \$18 billion in energy efficiency funding. The primary objectives of the energy efficiency funding are to build jobs, save energy, and build energy efficiency infrastructure for the long term. The State Energy Program ("SEP"), managed by the State Energy Offices, was allocated \$3.1 billion.

1 4. The Arizona Energy Office ("AEO") filed an application for \$55.447 million of
2 SEP funding and has already been awarded half of the funds. The remaining 50 percent of the
3 SEP funds will be awarded after the state demonstrates successful implementation of its plan.
4 Among other items, the AEO SEP plan includes \$10 million for the State Building Energy
5 Performance Contracting Program and \$20 million for the Energy Efficiency and Renewable
6 Energy in Schools Grant Program. SEP funds are not to replace existing funding. Both state
7 buildings and schools are eligible to receive incentives under APS' nonresidential DSM programs.

8 5. Another type of energy efficiency funding from ARRA is Energy Efficiency and
9 Conservation Block Grants which will provide \$64 million directly to cities and counties. Cities
10 and counties in APS' service area are also eligible to receive incentives under APS' nonresidential
11 DSM programs. Other ARRA funds may also become available for incentives to APS customers.

12 6. On December 11, 2008, the Commission issued Decision No. 70637, which
13 approved five of APS' non-residential DSM programs. Decision No. 70637 included the following
14 provision (page 10, lines 15 1/2 through 19 1/5):

15 "14. APS shall continually research and monitor other energy-efficiency rebates and
16 incentives, including tax credits, that may be available to its Non-Residential DSM
17 program participants throughout its service territory; and that the Company shall
18 limit its incentive payments to program participants to ensure that the sum of all
19 known monetary incentives, either paid or available to APS program participants
from other entities for the same measure, is limited to APS' established measure
cap, such as 50 percent or 75 percent of incremental cost, unless a different cap is
ordered by the Commission,"

20 7. APS does not know whether the ARRA funding would be considered a rebate,
21 incentive, or tax credit as intended by the language in Decision No. 70637. APS requests that the
22 Commission clarify whether ARRA funds are outside of the intent of Decision No. 70637, so that
23 the ARRA payments do not need to be taken into consideration when determining the amount of
24 the DSM incentive that is paid to a customer.

25 8. ARRA funding did not exist at the time that the Commission issued Decision No.
26 70637; therefore, the ARRA funds were not considered when establishing the caps on incentives
27 through APS' DSM programs. Under the language in Decision No. 70637, APS may have to
28 reduce its incentive to a customer to allow the customer to also receive an incentive resulting from

1 ARRA in order to keep the sum of the two incentives under the established cap. However, ARRA
2 does not allow utility funds to be replaced by ARRA funds. Without an adjustment to the
3 established cap, the customer may not be able to receive the ARRA incentive.

4 9. The language in Decision No. 70637 includes the phrase "unless a different cap is
5 ordered by the Commission." Staff believes that the incentive caps in APS' nonresidential DSM
6 programs should remain in place, but that the ARRA incentives should be allowed to supplement
7 the APS DSM incentives without supplanting them. Therefore, Staff has recommended that
8 ARRA funds should not be subject to the existing DSM incentive caps, but that the sum of all
9 incentives, including ARRA, should not exceed 100 percent of the incremental cost of the
10 measure.

11 CONCLUSIONS OF LAW

12 1. APS is an Arizona public service corporation within the meaning of Article XV,
13 Section 2, of the Arizona Constitution.

14 2. The Commission has jurisdiction over APS and over the subject matter of the
15 application.

16 3. The Commission, having reviewed the application and Staff's Memorandum dated
17 July 15, 2009, concludes that it is in the public interest that ARRA funds should not be subject to
18 existing DSM incentive caps, but that the sum of all incentives, including ARRA, should not
19 exceed 100 percent of the incremental cost of the measure.

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ORDER

IT IS THEREFORE ORDERED that ARRA funds shall not be subject to the existing DSM incentive caps, but that the sum of all incentives, including ARRA, shall not exceed 100 percent of the incremental cost of the measure.

IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, MICHAEL P. KEARNS, Interim Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2009.

MICHAEL P. KEARNS
INTERIM EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

EGJ:BEK:lhv\CH

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