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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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IN THE MATTER OF THE APPLICATION  
OF ARIZONA PUBLIC SERVICE  
COMPANY FOR APPROVAL OF A  
DISTRIBUTIVE ENERGY INITIATIVE:  
THE COMMUNITY POWER PROJECT –  
FLAGSTAFF PILOT

DOCKET NO. E-01345A-09-0227

**SUPPLEMENTAL FILING**

Arizona Public Service Company (“APS” or “Company”) is submitting this filing to clarify that in filing its request for approval of the Flagstaff Community Power Project,<sup>1</sup> the Company is seeking the Commission’s interpretation of the Renewable Energy Standard (“RES”) Rules regarding distributed generation and the Distributed Renewable Energy Requirements.<sup>2</sup>

The proposed Community Power Project – Flagstaff Pilot (“Community Power Project”) would provide customers (in a limited geographic area) solar facilities that would be located at their homes or businesses. The proposed program is novel because the solar equipment would be owned and maintained by APS, and participating customers would be able to lock-in a solar rate for twenty years, through the Community Power Project Rate Schedule.<sup>3</sup> In essence, the Community Power Project would allow APS’s customers to have solar rooftop units or solar water heaters with no upfront cost. The Company anticipates that this project will facilitate customer participation in distributed generation, both residential and

<sup>1</sup> Filed May 11, 2009.

<sup>2</sup> Relevant RES Rules include A.A.C R14-2-1801(E), (G) and (R), and R14-2-1805.

<sup>3</sup> Rate Schedule CMPW-01 is attached to Exhibit A of the Company’s Application in this docket (see Attachment C.)

1 non-residential, while also providing important research on the impacts of high penetrations  
2 of solar distributed resources on the Company's electric distribution system.

3 APS believes that the intent of the distributed energy requirements is to drive the  
4 installation of renewable energy systems for the benefit of participating customers, and all  
5 customers in general. Utility ownership is an important alternative approach that helps affect  
6 this desired outcome, and the Community Power Project was specifically developed to meet  
7 these objectives. As part of the Company's proposal, APS is requesting that the energy  
8 resulting from solar installations made at customers' homes be counted toward the residential  
9 distributed energy requirement, and that the energy resulting from those installations made on  
10 businesses or commercial properties be counted toward the non-residential distributed energy  
11 requirement. In making this request, the Company is asking the Commission to determine  
12 whether the RES Rules allow for this treatment.

13 In the alternative, should the Commission determine that utility-owned facilities  
14 located at a customer's site were not intended to be distributed energy resources under the  
15 RES Rules, APS is asking the Commission to waive those portions of the Rules and,  
16 nonetheless, allow such installations to be recognized as distributed energy for compliance  
17 with the annual distributed renewable energy requirements. The following legal analysis  
18 describes the Company's position on this issue.

19 **LEGAL ANALYSIS**

20 APS believes that the language of the RES Rules does not preclude a utility-owned  
21 distributed energy resource that is located at the customer's site. Under the RES Rules'  
22 definition of "Distributed Generation,"<sup>4</sup> there are two primary components: 1) the electric  
23 generation must be sited at a customer premises; and 2) provide electric energy to the  
24 customer load on that site or provide wholesale capacity and energy to the local utility  
25 company for use by multiple customers in contiguous distribution substation service areas.<sup>5</sup>

26 \_\_\_\_\_  
27 <sup>4</sup> "Distributed generation" is used interchangeably with "distributed energy" in the industry.

28 <sup>5</sup> A.A.C. R14-2-1801(E) states:

"Distributed Generation" means electric generation sited at a customer premises, providing electric energy to the customer load on that site or providing wholesale capacity and energy to the

1 These components recur in the definition of “Distributed Solar Electric Generator”.<sup>6</sup> The  
2 RES Rules are silent regarding the issue of system ownership, including ownership by a solar  
3 service provider or utility-ownership. The single exception on this point is that of wholesale  
4 distributed energy, where the Rule specifies that the “non-utility owners” of renewable energy  
5 may deliver wholesale power to a utility, if transmission lines greater than 69 kV are not  
6 required to deliver the load.<sup>7</sup> In short, under the Rules, distributed renewable energy systems  
7 must be located on a customer’s premises, where the customer takes renewable power from  
8 the system.

9 The Company has reviewed the transcripts that were available from past Open  
10 Meetings in an attempt to determine “Commission intent” regarding utility ownership of  
11 distributed energy.<sup>8</sup> While Commissioners had some discussion related to utility ownership  
12 of distributed energy at these Open Meetings, the Company’s review was inconclusive  
13 regarding utility ownership of distributed energy under the parameters proposed by APS in  
14 this docket. The Open Meeting discussions appeared to address utility-scale central plants,  
15 such as Tucson Electric Power’s solar facilities located at the Springerville Power Plant.

16 For example, at the February 26, 2006 Open Meeting, Commissioner Spitzer discussed  
17 distributed energy with Don Robinson of APS, stating:

18 I understand the company is in a dilemma because there are certain  
19 contingencies over which the company does not have control, particularly on  
20 the distributed side. And the Commission has made a policy decision... we  
21 want a different allocation of renewable resources rather than all the resources  
22 go into *central station, utility-owned systems*. [Emphasis added.]

22 Transcript at p. 133.

23

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25 local Utility Distribution Company for use by multiple customers in continuous distribution  
26 substation service areas. The generator size and transmission needs shall be such that the plant or  
associated transmission lines do not require a Certificate of Environmental Compatibility from  
the Corporation Commission.

27 <sup>6</sup> A.A.C. R14-2-1801(G).

28 <sup>7</sup> A.A.C. R14-2-1801(R).

<sup>8</sup> There was limited availability of transcripts; the Company reviewed transcripts for the Open Meetings held  
on February 10, 2006, February 27, 2006, and October 31, 2006.

1 The Company's research into the rulemaking did not provide specific insight regarding  
2 the Commission's intent with respect to distributed energy system ownership. The record did  
3 not provide insight on the issue of non-customer owned systems – whether by financing  
4 entities (*i.e.*, through leases), by service providers (such as under a Solar Service Agreement),  
5 or by utility ownership of the renewable energy facilities at a customer's site. As a result,  
6 APS believes that a Commission ruling is necessary on whether APS can provide service to  
7 its customers through distributed energy resources; specifically, whether APS-owned solar  
8 units that are placed on the rooftops of homes and businesses would be counted as distributed  
9 energy under the RES Rules.

10 The Community Power Project will provide renewable energy facilities to customers  
11 at their homes and businesses, without the upfront costs of installation or repair and  
12 maintenance obligations, not unlike installations facilitated under a lease or Solar Service  
13 Agreement. APS believes that this program meets with the spirit of the distributed energy  
14 provisions of the RES Rules, and has the potential to increase distributed energy deployment  
15 in the Company's service territory. For these reasons, APS is requesting that the Commission  
16 find that renewable energy produced at customers' homes and businesses will meet the RES  
17 distributed energy requirements.

18 In the alternative, should the Commission determine that utility-owned distributed  
19 energy is precluded by the RES Rules, APS asks the Commission to grant a waiver of the  
20 applicable rules so that the Community Power Project may proceed as planned.

21 RESPECTFULLY SUBMITTED this 29th day of October, 2009.

22 PINNACLE WEST CAPITAL CORPORATION  
23 LAW DEPARTMENT

24  
25 By:   
26 Deborah R. Scott  
27 Attorney for Arizona Public Service Company

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1 ORIGINAL and thirteen (13) copies  
2 of the foregoing filed this 29th day of  
3 October, 2009, with:

3 Docket Control  
4 ARIZONA CORPORATION COMMISSION  
5 1200 West Washington Street  
6 Phoenix, Arizona 85007

6 COPY of the foregoing hand-delivered,  
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8 of October, 2009, to:

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