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AZ CORP COMMISSION
DOCKET CONTROL

November 16, 2009

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

RE: DRAFT RESOURCE PLANNING AND PROCUREMENT RULES
DOCKET NO. RE-00000A-09-0249

Enclosed please find Arizona Public Service Company's second set of comments regarding Commission Staff's Proposed Rulemaking Regarding Resource Planning as filed on November 2, 2009.

If you should have any questions regarding the information contained herein, please call Mr. Jeff Johnson at 602-250-2661.

Sincerely,

Leland Snook /sc

Leland R. Snook

LRS/dst

Attachments

Cc: Steve Olea
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Arizona Corporation Commission
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**Arizona Public Service Company
Second Set of Comments Regarding
Draft Resource Planning and Procurement Rules
Docket No. RE-00000A-09-0249**

I. INTRODUCTION

On November 2, 2009, Commission Staff issued its Proposed Rulemaking Regarding Resource Planning, along with a draft Order and a revised draft of the Resource Planning and Procurement Rules (“Draft Rules”). Arizona Public Service Company (“APS” or “Company”) reiterates the comments and redline edits it submitted on September 15, 2008 and September 18, 2009, and incorporates them by this reference. The following comments address specific rule proposals and aim to enhance the effectiveness of the proposed Draft Rules.

II. COMPANY’S POSITION

Resource planning is a critical component of providing adequate, reliable service to customers. APS is supportive of the Commission’s efforts to enact resource planning rules because the Commission, by necessity, plays a critical role in the resource planning decision-making process. APS also believes that the process by which stakeholders work together to reach informed resource decisions that balance the overall costs and risks of the resource portfolio must be unambiguous. Prior APS comments on the Draft Rules addressed regulatory certainty and cost recovery as an important means of permitting the utility to make necessary long-term commitments and allowing access to the financial markets to raise the required capital. The following comments are intended to further that goal, and also seek to align the utility and the Commission on a resource planning process that ultimately facilitates the provision of cost-effective, reliable power to Arizona customers.

III. RESOURCE PLANNING RULES

APS incorporates by reference each of its prior comments submitted in this docket and elaborates in detail on five specific points regarding the current Draft Rules. First, it is important to have a process to govern any instance in which the Commission does not order an acknowledgment of a resource plan. Second, inclusion of only part of the Renewable Energy Standard and Tariff (“REST”) Rules could lead to conflicting regulatory requirements and does not contain the same functionality as the REST Rules. Third, the Draft Rules requirements that the utility’s resource plan include an explanation of the need for and purpose of “all expected new or refurbished transmission and distribution facilities,” including the capital costs and operating and maintenance costs, is unnecessarily onerous and overlaps with other Commission processes, such as the Biennial Transmission Assessment (“BTA”), and may require additional detail that is

simply not available. Fourth, the procurement provision for short-term hedging should be modified to reflect real world conditions. Finally, the procurement provisions of the Draft Rules should clarify that they supersede and replace the Recommended Best Practices for Procurement previously adopted by this Commission in Decision No. 70032 (December 4, 2007).

A. THE RESOURCE PLANNING PROCESS

The Draft Rules appear to recognize that the Commission's acknowledgment of a utility's resource plan is a critical part of achieving alignment on future resource plans and is vital to the utility's implementation of its resource plan and ability to make significant financial commitments.

Section 704(B) of the Draft Rules states that "[t]he Commission shall order an acknowledgement of a load-serving entity's resource plan if the Commission determines that the resource plan complies with the requirements of this Article and that the load-serving entity's resource plan is reasonable and in the public interest" However, there are no provisions that identify what happens if the Commission determines that the resource plan *does not comply* with the requirements of this Article or that the resource plan *is not* reasonable and in the public interest.

Arizona utilities will be investing billions of dollars in resources in the coming years, and will need some measure of regulatory certainty to do so. If the Commission determines that the resource plan submitted does not warrant the "acknowledgment" provided in R14-2-704(B), the rules should provide that the Commission shall issue, in a timely manner, an order so noting and explaining the reasons why the plan filed fails to warrant "acknowledgment" (either because of a technical deficiency in its filing or because the plan submitted is not reasonable and in the public interest). As drafted, the Rules suggest that a failure to acknowledge the plan means that the plan submitted is deficient in some way, but provide no means by which the utility can ascertain how its plan should be modified to meet the Rule's requirements. A utility needs to understand the deficiencies in its resource plan before it makes significant long-term financial commitments, which is necessary with many infrastructure additions. This will also provide critical feedback that can be used for subsequent plan filings.

Therefore, APS suggests that the Commission include a provision in section 704 that addresses this feedback deficiency, such as the following:

G. If the Commission determines that the resource plan does not comply with the requirements of this Article or that the resource plan is not reasonable and in the public interest, then, by July 1 of each odd year, the Commission shall issue a letter to the utility specifically describing why it is not issuing an order of acknowledgement. The Commission shall provide the utility with a reasonable opportunity to amend its resource plan to remedy any identified deficiencies.

B. REST RULES REQUIREMENTS

The inclusion of only part of the REST Rules, in section 703(F), could lead to conflicting requirements in the future and does not contain the same functionality as the REST rules. The REST Rules contain carefully crafted provisions with several significant requirements that increase the use of renewable energy in Commission-regulated utilities' portfolios. In addition, the REST Rules provide the utility with increased regulatory certainty and the cost recovery mechanisms necessary to carry out the requirements. No such assurance of cost recovery or cost recovery mechanism is contained in the Draft Rules. Moreover, the REST Rules were subject to their own rulemaking process and included significant stakeholder input. Incorporating a discrete segment of the REST Rules, the chart with total renewable energy requirements, in the Draft Rules could negate the stakeholder input that was incorporated into the REST Rules.

Additionally, there could be confusion about the applicability of the renewable energy requirements in the Draft Rules if the REST Rules are amended. If the REST Rules are amended, it is unclear which rule controls renewable energy requirements. The Draft Rules, section 703(F), suggest that the resource plan must include "renewable energy resources so as to meet the greater of" the REST Rules or the Draft Rules; however, several questions remain unresolved. For instance:

- What if amendments to the REST Rules provide greater requirements some years and lesser requirements in others? Should the utility aim to meet the renewable resource requirement on a yearly basis or on a collective basis that covers the 15-year span?
- If the utility is required to meet the renewable energy requirements in the Draft Rules, is it still bound by the other requirements of the REST Rules when preparing a resource plan?
- What if definitions in the REST Rules change, do those new definitions apply to the Draft Rules?
- If the utility is required to meet the renewable energy requirements in the Draft Rules, does it do so without the cost recovery provisions of the REST Rules?

Therefore, for the sake of clarity and efficiency, APS recommends that the Draft Rules include a reference to the REST Rules, similar to their reference to the energy efficiency rules.

C. TRANSMISSION AND DISTRIBUTION

Sections 703(D)(1)(f) and (g) of the Draft Rules require utilities to include an explanation of the need for and purpose of “all expected new or refurbished transmission *and distribution facilities*,” including the capital costs and operating and maintenance costs. Additionally, section 704(B) contains a reference to “the reliability of the transmission grid” as a factor that the Commission should consider in determining whether to acknowledge the utility’s resource plan. These requirements unnecessarily overlap with the BTA process. In fact, the need and purpose of new transmission facilities, as well as the reliability of the transmission grid, is an integral part of the BTA process. Therefore, something should be done to eliminate the overlap.

Further, distribution facilities could be construed to include all facilities used to distribute power to customers, from individual 25 kV transformers, each serving several homes, to distribution switches in 69 kV substations. The need for distribution facilities are dictated by specific requests for service as well as overall growth in APS’s service territory. It would, however, prove meaningless to require utilities to include distribution facilities in the 15-year planning horizon of a resource plan. Utilities can usually reliably identify some of the distribution facilities that will be necessary for the next several years; however, asking for a 15-year distribution plan is akin to asking where the dust will settle after a windstorm. Utilities can generally predict the short-term requirements of the distribution system, but it is difficult to predict exactly where geographic growth patterns will materialize several years into the future, requiring corresponding modifications to the distribution system. APS, therefore, recommends that the Commission adopt language to limit this requirement to only transmission facilities that are a necessary part of carrying out the resource plan – excluding distribution facilities.

D. PROCUREMENT ISSUE – RFP EXCEPTIONS

Section 705(B)(4) of the Draft Rules incorporates the Best Practices description of a “planning horizon is two years or less” as one exception to the preference for RFPs. This language lacks clarity in the procurement process. Does this refer to the duration of the transaction? Clarification should be provided as to the meaning of this provision.

The Draft Rules should allow for normal commodity hedging for procurement of resources with transaction terms of less than five years. Wholesale power exchanges provide the best opportunity to buy short-term power from a host of bidders with minimal transaction costs, on a competitive basis. Currently, APS utilizes well-established hedging policies and procedures for energy acquisitions of less than five years duration.⁴ The Settlement Agreement in APS’s 2003 Rate Case that was adopted by the Commission, in Decision No. 67744 (April 7, 2005), recognized these practical considerations of resource procurement as it defined “long-term resources” as five years

or longer.¹ Section 705(B)(4) of the Draft Rules could be interpreted to be in conflict with reasonable and acceptable hedging practices.

Therefore, to ensure hedge transactions are included in the RFP exceptions, APS believes that Section 705(B)(4) should be modified to read, “the term of the transaction is less than five years.”

E. PROCUREMENT ISSUE – BEST PRACTICES

The Draft Rules include recommended practices for procurement that differ slightly from the Best Practices previously adopted by this Commission in Decision No. 70032. It was anticipated that the “Recommended Best Practices for Procurement” would become part of a rule, so APS recommends inclusion of the following provision:

D. These rules supersede and replace the Recommended Best Practices for Procurement.

VI. CONCLUSION

The comments and changes recommended above, in addition to previously made comments, are important as utilities plan to meet the future electricity needs of its customers in a cost-effective manner. APS appreciates the opportunity to participate in this process.

¹ See Decision No. 67744, p. 25.

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