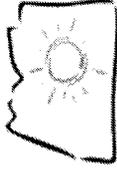


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AriSEIA
Arizona Solar Energy
Industries Association

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Phoenix, AZ 85027

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL
Tel: 623-587-6432
Cell 602-708-1497

To: The Arizona Corporation Commission

Date: December 18, 2009

Docket No: E-01345A-08-0338

Arizona Corporation Commission
DOCKETED

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The Arizona Chapter of the Solar Energy Industries Association has always advocated the sustainable development of Arizona's solar industry through the implementation of programs that would provide maximum benefits to Arizona's economy and environment. Sustainable and uninterrupted markets are necessary for any industry to grow and thrive.

AriSEIA applauds the efforts of Arizona Public Service to develop and implement programs under the Renewable Energy Standard and Tariff that have become a model for other utilities across the nation and have been a driving force in the APS service territory for the development of the solar industry in Arizona. For the most part, the APS program, modeled after the programs developed in the Uniform Credit Purchase Program Workshops sponsored by the Commission, have led to the sustainable markets that we have sought for so long. However, AriSEIA recognizes that several programmatic changes need to occur before this program can achieve the goals it is capable of.

Streamlining the Reservation Process

An industry cannot grow if there are interruptions in the market. This is especially true for a young and emerging industry such as the solar energy industry. While overall, 2009 has been a year of tremendous growth for the solar industry in Arizona, the commercial side of the solar industry has experienced interruptions that have delayed the growth of the industry, left non-residential rate

payers who wished to install solar thermal and electric systems out in the cold, and generally slowed growth in that sector of the industry. We thank the

Commission and Arizona Public Service for dealing with many of these issues that caused the delay, however, there are still steps that can be taken to insure that the reservation process moves smoothly and provides stakeholders with information that will enable them to make wise decisions while participating in the process. These include the, greater transparency, tightening the REC reservation process, and adjustments to the project calculator.

The Need for Greater Transparency

In order to provide greater transparency in the process, it would be helpful to industry members to have information about the projects that have submitted applications to the utility. Information such as the number and size of projects, available funds for each reporting period, and funds availability would be informative to the industry and rate payers who are interested in moving forward with projects.

Tightening the REC Reservation Process

AriSEIA understands that with regard to REST compliance, there is significant disparity between the amount of REC's predicted to be generated by currently reserved projects and the amount of REC's that will be produced from non-residential systems that have actually been installed. There is ample evidence in Arizona programs, and programs across the country, that the actual number of projects built and RECs produced are not equal. Actual REC generation will always be lower than what has been reserved. With a more transparent and stringently enforced REC reservation process, projects that may not be truly ready for execution will not prevent legitimate, funded, shovel-ready projects from being implemented. We have worked with Arizona Public Service to increase the percentage of reservations that become real projects and will continue to do so. We believe that the steps being taken, while minimal, will help alleviate this problem and stand ready to work with the utility to insure the reservation process moves smoothly.

The APS Plan docketed on July 1, 2009 suggested the following language to help tighten the REC reservation process:

"Credit Purchase Agreement: PBI participants must execute a Credit Purchase Agreement within 30 days of the date of the reservation confirmation by APS."

The APS Plan Supplement docketed on October 16, 2009 modified the language above as follows:

"Credit Purchase Agreement: PBI participants must execute a Credit Purchase Agreement within 30 days of the date of the reservation confirmation by APS. At such time, the customer must also provide proof of an executed contract between themselves and the developer/contractor for the installation of the proposed renewable technology"

We believe that the language from the July 1st filing should be approved. It accomplishes the goal of tightening the reservation process, but allows the APS customer to proceed in a business like manner regarding administrative and legal review of complex purchase contracts and solar service agreements. It is unlikely that an APS customer would expend the time and cost to execute the somewhat lengthy and complex Credit Purchase Agreement if they did not fully intend to move forward with the project.

The Project Ranking Calculator

AriSEIA has concerns that the Project Ranking Calculator that is part of the current, as well as the 2010 REST Implementation Plan, does not adequately reflect the overall cost/benefit equation of the projects that are ranked for each technology. For example, when quoting a solar electric system to a potential customer, it is desirable to assume the highest possible REC value in order to be able to show the lowest possible end price for the PV system and/ or the kWh's produced. This is particularly true in a competitive environment, where there are multiple bidders and price is the main factor in the selection process. While we understand the need to continually strive to lower costs for the program, this process is disruptive to the market and negatively impacts the ability of commercial solar companies to sell projects.

The net result of the existing Project Ranking Calculator process is that it is difficult, if not impossible to commit to a price for a PV system that relies on an auction based PBI payment. One can submit an offer to a commercial PV customer based on an assumed PBI rate, but it can take months to find out if this price is accepted. This process lends itself to gaming of the system where one vendor can assume what is considered a "realistic" PBI rate in preparing a bid and lose to another vendor who assumes a lower PBI rate in order to win the bid and obtain a better position in the calculator only to adjust the price of the PBI after the winners are selected.

APS 2008 DE RFP FOR 2010 PLAN

APS is requesting approval of a distributed energy request for proposal process (DE RFP) that was issued in the fall of 2008 for non-residential projects. APS took this action approximately four months after approval of the REST due to its perception that the market would not generate the necessary projects to fulfill their requirement. Since that time, the market has shown tremendous growth, so much so, that APS should come close to meeting its REST goals for a 2009. In fact, the market was temporarily halted this summer partially over concerns that the program was over subscribed.

For the reasons stated above, and as further discussed below, AriSEIA requests that the Commission deny the APS request to include its DE RFP as part of the DE portion of the REST. AriSEIA does not oppose inclusion of the DE RFP as part of the non-distributed portion of the REST if APS so chooses as long as neither the funding nor the credits are counted as distributed generation.

Premature Lowering of the PBI

AriSEIA would like to appeal to the ACC to consider revisiting the premature lowering of non-residential PBI rates (from \$0.18 to \$0.162). This step was taken recently when APS was given the assurance of cost recovery for performance based incentives. This reduction created a disruption in the market and we feel that it was undertaken due to the misconception that the commercial market was over subscribed. The purpose of the above recommendations is to communicate to both the ACC and APS what solar companies in Arizona are experiencing in the market. AriSEIA's members understand and support the idea that good policy is essential to shaping a successful, sustainable solar industry in the state. However, it is also important to understand that the existing schedule for lowering incentives offers stability and certainty to the market.

Qualified Contractor Program

AriSEIA supports the implementation of the APS Qualified Contractor Program. The Association and its members recognize obligations to the general public to conduct business and promote products and services in a manner which assures the public health, safety and welfare through careful design, installation, operation and maintenance of solar energy systems. Our members subscribe to a strict code of ethics designed to promote the solar industry, and provide the highest standards of quality, professionalism, and customer service to our consumers.

There has been an onrush of new companies entering the solar energy market and we recognize the need to insure that all companies participating in programs developed under the Commissions Rule offer only the highest quality solar energy products and services. We also recognize the need to maintain the highest ethical standards of advertising, selling, installation and service guided by the principles of honesty and integrity. Unfortunately, not all individuals entering the solar industry subscribe to this philosophy and we are beginning to see the negative effects of these entrants into the market.

We have worked with APS to provide input into the Qualified Contractor Program and feel that they are on the right track. However, we do feel that AriSEIA membership and adherence to AriSEIA's strict Code of Ethics should be a requirement of the program. With the years of experience in all solar technologies, the industry has the knowledge, and incentive to police itself and insure that customer satisfaction is everyone's goal.

Utility Ownership

AriSEIA has some concern regarding utility ownership of solar and renewable energy assets. Utility ownership has the potential to significantly impact the model that has been developed here in Arizona to promote solar and renewable energy, a model that has successfully created a thriving solar industry in our state. We are concerned that the AZ Sun Program and the Flagstaff Pilot Project will bring us back to the era where funds from the Environmental Portfolio Standard, the forerunner of the REST, were primarily used to purchase renewable energy assets for the utility.

While we are not explicitly opposed to utility ownership, we feel that it bears some discussion and we recommend that if utilities are allowed to own solar and renewable energy systems, they should NOT be allowed to count these systems as distributed generation nor fund these systems from the DG budget

Conclusion

One of the bright spots in Arizona's economy is the economic activity that has been generated by the Renewable Energy Standard and Tariff that exists in Arizona thanks to the foresight of the Arizona Corporation Commission. We also appreciate the fact that Arizona Public Service has consistently come to the Commission with one of the most effective utility implementation programs in Arizona. However, the APS 2010 REST Implementation Plan comes with some new programs that will bring to Arizona concepts such as utility ownership and perhaps even the entry by the utility into the DG solar energy market, in direct competition with the many companies that are currently competing there. As stated above, we are not necessarily opposed to utility ownership; however we do feel that competition from a regulated utility into the solar and renewable

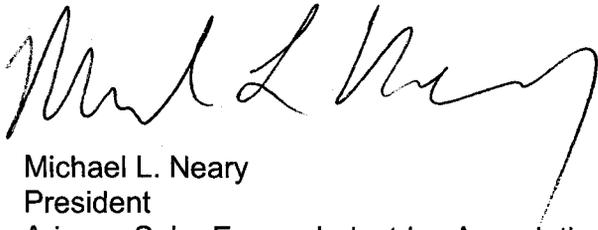
distributed generation market will have a negative impact on the market and will lessen the positive economic benefits that have been generated by the REST.

APS is on the way to compliance with a program that is responsive to ratepayers and the solar industry. Any difficulties that the program has experienced are being taken care of in a positive manner with stakeholder collaboration.

We agree with the comments of the Solar Alliance that any decision on utility ownership should be preceded by a Commission sponsored workshop and that Utility owned DG should not count toward the DG REST requirements. In fact, taking that one step further, we feel that a workshop to revisit the Uniform Credit Purchase Program would be a beneficial exercise that would hopefully lead to adoption of uniform programs by all of Arizona's regulated utilities.

We urge the Commission to seek to insure that the REST programs provide sustainable orderly growth for Arizona's solar and renewable energy industry. We need to avoid any interruptions to the market such as those that have occurred in the commercial market in APS service territories and both the residential and commercial markets in the SSVEC an TRICO service territories. We thank the Commission for this opportunity to be heard.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael L. Neary". The signature is fluid and cursive, with a long, sweeping tail that extends downwards and to the right.

Michael L. Neary
President
Arizona Solar Energy Industries Association