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BEFORE THE ARIZONA CORPORATION

IN THE MATTER OF THE APPLICATION OF )  
 ARIZONA PUBLIC SERVICE COMPANY FOR ) DOCKET NO.  
 APPROVAL OF ITS 2010 RENEWABLE ENERGY) E-01345A-09-0338  
 STANDARD IMPLEMENTATION PLAN AND )  
 DISTRIBUTED ENERGY ADMINISTRATIVE )  
 PLAN AND REQUEST FOR RESET OF )  
 RENEWABLE ENERGY ADJUSTOR. )  
 ) OPEN MEETING

At: Phoenix, Arizona  
 Date: December 22, 2009  
 Filed: **JAN 07 2010**

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AGENDA ITEM NO. U-7

Arizona Corporation Commission  
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1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on to be heard at Open Meeting  
3 before the Arizona Corporation Commission, in Hearing  
4 Room 1 of said Commission, 1200 West Washington Street,  
5 Phoenix, Arizona, commencing at 3:36 p.m. on the 22nd of  
6 December, 2009.

7  
8 BEFORE: KRISTIN K. MAYES, Chairman  
9 GARY PIERCE, Commissioner  
10 PAUL NEWMAN, Commissioner  
11 SANDRA D. KENNEDY, Commissioner  
12 BOB STUMP, Commissioner

13 APPEARANCES:

14 For the Applicant:

15 Ms. Deborah Scott  
16 Mr. Eran Mahrer  
17 Mr. Jeff Guldner  
18 Mr. Patrick Dinkel

19 For Solar Alliance:

20 Mr. Scott Wakefield  
21 Mr. Tom Alston

22 For the Arizona Corporation Commission Staff:

23 Mr. Jeffrey Pasquinelli  
24 Mr. Steve Olea  
25 Ms. Janet Wagner  
Ms. Janice Alward  
Mr. Ray Williamson

COLETTE E. ROSS  
Certified Reporter  
Certificate No. 50658

1 CHMN. MAYES: We are going to go ahead and go on  
2 the record in the APS 2010 REST implementation plan  
3 case. We have obviously APS and Staff here and then we  
4 have a number of people who want to make public comment.  
5 And we have several amendments. So let us first go to  
6 Staff.

7 Would Staff like to introduce the matter? And  
8 then we will go to public comment.

9 MR. PASQUINELLI: Yes, Madam Chair,  
10 Commissioners. Good afternoon. I am Jeffrey  
11 Pasquinelli with Commission Staff.

12 Item U-7 is Arizona Public Service's 2010 REST  
13 implementation plan. APS is estimating the full cost of  
14 compliance for 2010 will cost about \$86.7 million, which  
15 is an increase of 10.6 percent over 2009.

16 Now, APS is requesting an increase in the REST  
17 surcharge rates of about 9 percent to collect  
18 80.7 million because there is another 6 million  
19 collected in base rates, to reach a total of 86.7. Now,  
20 APS is offering proposals to increase participation in  
21 residential distributed energy and also to accommodate  
22 the increased demand in nonresidential DE.

23 Staff is recommending that APS' plan be approved  
24 with certain modifications that have been set forth in  
25 Staff's memo to the Commission and in its proposed

1 order.

2 Thank you, Madam Chair, Commissioners.

3 MR. OLEA: Madam Chair and Commissioners, if I  
4 could have a chance to speak here.

5 CHMN. MAYES: Sure, Mr. Olea.

6 MR. OLEA: I guess, if you would, turn to page 9  
7 of Staff's proposed order, and also on page 12. On  
8 page 9, Finding of Fact 30, and on page 12, Finding of  
9 Fact 47, they are basically the same wording, where  
10 Staff has basically said that it recommends approval of  
11 the AZ Sun program but recommends a more traditional  
12 cost recovery.

13 At this point what I want to point out, and if I  
14 could get some help from Ms. Wagner too, that particular  
15 recommendation Staff made is basically opposite of what  
16 is in the settlement agreement that you just approved.  
17 The settlement agreement would, at least my  
18 understanding on paragraph 157 of the settlement  
19 agreement, and I believe Ms. Wagner has a, you know, has  
20 a copy of that that she can refer to, but it actually  
21 allows the cost recovery that's being requested by APS.  
22 So that Finding of Fact 30 and Finding of Fact 47 are in  
23 conflict or contrary to the settlement agreement. I  
24 just wanted to point that out.

25 There are several options that you have, and we

1 can discuss those if you want. But I don't know if  
2 Ms. Wagner has anything to add at this point with regard  
3 to kind of following with the settlement agreement and  
4 these two findings of facts.

5 CHMN. MAYES: Well, as I recall -- well,  
6 Ms. Wagner, do you want to address that? I guess my  
7 initial question would be the settlement agreement, if I  
8 recall correctly, was not -- did discuss a PV project,  
9 not necessarily all 100 megawatts, if -- maybe I am  
10 mistaken about that.

11 MS. WAGNER: Madam Chair, members of the  
12 Commission, there is a provision that describes that, as  
13 you say. I think what is at issue is really a different  
14 paragraph. And it is paragraph 15.7. If it would be  
15 helpful, I will just read it.

16 CHMN. MAYES: Okay.

17 MS. WAGNER: "All reasonable and prudent  
18 expenses incurred by APS pursuant to this section of the  
19 agreement shall be recoverable through the power supply  
20 adjuster, a renewable energy adjustment mechanism, or  
21 the transmission cost adjuster, as appropriate," so one  
22 of those three vehicles as appropriate. "To encourage  
23 least cost renewable resources to benefit customers,  
24 these expenses would also include the capital carrying  
25 costs of any capital investments by APS in renewable

1 energy projects (depreciation expenses at rates  
2 established by the Commission, property taxes, and  
3 return on both debt and equity at the pre-tax weighted  
4 average cost of capital). In consideration of this  
5 paragraph 15.7, APS shall not seek to recover  
6 construction work in progress related to any of the  
7 renewable projects required by this section 15."

8           So it is my understanding that the proposal  
9 included in APS' implementation plan was intended to  
10 essentially mirror that proposal in 15.7. So it is not  
11 that what Staff has proposed was, you know,  
12 inappropriate. It is just that this particular  
13 provision of the settlement agreement sets forth a  
14 contemplated specific kind of treatment in these  
15 circumstances.

16           CHMN. MAYES: But does the settlement agreement  
17 speak to 100 megawatts? I guess I, I would have to go  
18 back and rereview, review section 15. It has been,  
19 obviously it has been a week. It feels like a year  
20 since we voted. Probably hasn't even been that since we  
21 voted on the rate case. But...

22           COM. NEWMAN: What was that?

23           CHMN. MAYES: I don't, I don't even want to  
24 think about it anymore. But...

25           COM. PIERCE: It was two weeks ago when we did

1 the hearing.

2 CHMN. MAYES: Was it two weeks ago? Okay.

3 MS. WAGNER: There --

4 CHMN. MAYES: What all included is in 15?

5 MS. WAGNER: There are several provisions in  
6 section 15.

7 Let's see. 15.1 is the beginning: APS shall  
8 make its best efforts to acquire new renewable energy  
9 resources with annual generation or savings of 1,700,000  
10 megawatt hours. So this is, the first paragraph  
11 essentially is an obligation by APS to acquire more than  
12 they otherwise would be required to acquire.

13 There is the proposal for the in-state wind, the  
14 request for proposals for in-state wind.

15 There is the proposal in 15.3 for APS to file  
16 for Commission consideration a plan for implementing a  
17 utility scale PV generation project.

18 15.4 addresses the transmission projects.

19 15.5 addresses the programs for schools.

20 And 15.6 addresses programs for governmental  
21 institutions.

22 And then 15.7 is the one that I just read. It  
23 is my understanding that 15.7 is, I will use the phrase,  
24 global in that it is not tied to any one specific  
25 project.

1 CHMN. MAYES: Okay. All right. We will come  
2 back to that issue in a moment.

3 Ms. Scott, is there anything you would like to  
4 say at this point not specific to any amendment or issue  
5 but about the order?

6 MS. SCOTT: Chairman Mayes, Commissioners, at  
7 the time that we filed our implementation plan with the  
8 AZ Sun, the settlement had not yet been approved but it  
9 was thought that the plan that was put in front of you  
10 was consistent with the language in the settlement. And  
11 at this point now the settlement is finalized.

12 The issue that the company has regarding the  
13 traditional cost recovery for these kinds of projects is  
14 that it is just not financable for us to use that kind  
15 of cost recovery methodology. We won't be able to  
16 finance those projects. So what that would mean is, if  
17 we were to do that, rather than being able to go ahead  
18 and get started, once we get approval of our plan as far  
19 as issuing RFPs and moving forward to get some, get a  
20 facility started, we would have to come back to you on a  
21 case-by-case basis with proposals. So it would clearly,  
22 and I believe significantly, slow down the installation  
23 and deployment of these utility owned projects.

24 CHMN. MAYES: Don't you have to do that anyway,  
25 though, Ms. Scott, under the terms of the settlement

1 agreement? You have to come back with results of the  
2 RFP on the PV project and on the wind project, as I  
3 understood it. Well, at least the wind, I know that.

4 So I mean I am not disagreeing with necessarily  
5 your position on the issue of recovery, but you have got  
6 to come back to us on the big stuff anyway, don't you?

7 MS. SCOTT: I do know that there are several  
8 places where we do need to come back with you, come back  
9 and bring our plans back to you.

10 CHMN. MAYES: But not in all instances, okay.  
11 Let's, let's -- we will come back to this issue. Let me  
12 go to public comment now, and then we will come back to  
13 the underlying order.

14 Michael Neary.

15 MR. NEARY: Madam Chair, Commissioners, my name  
16 is Michael Neary. I am representing Arizona Solar  
17 Energy Industries Association. And I am going to be  
18 very brief. Thank you for the opportunity to speak.

19 You know, we have got a good, growing, thriving  
20 market for solar in Arizona. That's something we have  
21 been striving for for many, many years. And I think APS  
22 and the programs they have brought is who is responsible  
23 for that. We have held this program to others around  
24 the nation as an example of what someone, some other  
25 states should do for solar. And we filed some comments

1 on how we think that this program could be improved a  
2 little bit.

3 And our main goal is to see a sustainable  
4 market. This last year we have had some glitches. We  
5 have had some interruptions in the market and APS'  
6 service territory and in SRP's service territory that  
7 kind of set the industry back. And so our main goal is  
8 to make sure that we have a market that continues to  
9 grow. Even if it is slowly, if it continues to grow  
10 without interruption, that's the main thing.

11 There is a lot of new companies that are members  
12 of our organization. And we are, we are growing as the  
13 industry grows. And that is a good thing for Arizona.  
14 I think we are the one bright spot in job creation here,  
15 so we want to see that continue.

16 We filed comments which are self explanatory.  
17 And some of the amendments that, Commissioner Mayes,  
18 that you introduced do go to our concerns. And I think  
19 the Go Solar website is a great thing, if it could  
20 happen, to give some transparency and allow people in  
21 the industry to really see where the programs are at and  
22 help them make planned business plans and plans for  
23 future projects.

24 We worked to tighten the reservation process  
25 with APS. We would like to see a little bit of a

1 leeway. I know some of our members have had  
2 difficulties, and sometimes getting to contracts,  
3 especially when they are dealing with a state that has  
4 to go through the Attorney General's office or state  
5 agencies, sometimes that does take extra time. And so,  
6 you know, in some cases there is additional leeway  
7 that's needed.

8 We have concerns, our members have concerns  
9 about the way the project ranking calculator works, but,  
10 you know, overall, you know, it has been driving down  
11 costs.

12 We applaud the qualified contractor program. We  
13 have seen some issues in the industry lately where there  
14 are systems that are going in that, you know, are not up  
15 to par. And we want to make sure that the contractors  
16 who put these systems in put in systems that are going  
17 to work, work well and work for a very long time. So we  
18 applaud that. We would like to see ArISEIA membership  
19 tied into that as well because we do have a strict code  
20 of ethics in which we can help maintain the integrity of  
21 the industry.

22 We also have some concerns about utility  
23 ownership and the utilities entering the business, the  
24 solar business. And we would like to work with the  
25 utilities. I think your amendments take care of some of

1 our concerns.

2           And one thing that we have suggested in there is  
3 that we kind of go back and visit, revisit the UCCP, the  
4 uniform credit purchase program, because I can't help  
5 but wonder after sitting through a lot of these, if we  
6 had a uniform program throughout the state, maybe we  
7 could save ourselves a lot of time and a lot of effort,  
8 and if we go back to sort of revisit that and try to  
9 determine how we could have a standardized program for  
10 the state, that would be a good thing.

11           I would be happy to answer any questions.

12           CHMN. MAYES: Okay. Thank you, Michael.

13 Appreciate it.

14           Charles Provine from Solar Hawk Enterprises.

15           MR. PROVINE: Madam Chair, Commissioners, I am  
16 Charles Provine, and I am representing Solar Hawk  
17 Enterprises, LLC, and the clients that I work with.

18           I want to thank the Arizona Corporation  
19 Commission for making the right choice several years ago  
20 by implementing the renewable energy standard. However,  
21 I want to state my sincere disapproval how APS and other  
22 utilities under your regulatory authority have  
23 implemented their incentive frameworks.

24           APS and TEP both made it nearly impossible for  
25 solar energy integrators to earn the PBI payments from

1 their clients and start shovel-ready work. APS and TEP  
2 have managed to do very, very little with a lot of  
3 renewable energy funds. In June 2009 I called Tony  
4 Tewellis and asked about the possibility of funding my  
5 client's project, 100kW, NKK Switches of Scottsdale.  
6 The answer, sorry, all funds are taken. And when Bud  
7 Schultz called APS, the same answer.

8           Where is all this money or where is all this  
9 solar? We had 48 one megawatt, 48.1 megawatts approved  
10 in 2009 apparently. Where are all these megawatts  
11 going? What are the projects? Why are projects slated  
12 for 2011 to 2013 taking our money in 2009 for  
13 shovel-ready work that could happen this year?

14           I stand by my earlier submissions. Keep it  
15 simple and straightforward. Today the reservation  
16 process is nothing like this. If you allow APS' current  
17 move forward, then you have failed to serve Arizonans  
18 with the comprehensive plan to administer our money  
19 efficiently. You will have failed in your fiduciary  
20 duty to protect Arizona ratepayers.

21           Quickly, first come/first serve for all PV  
22 projects, with one caveat, there must be a signed  
23 contract. We do not need an auction process. This  
24 confuses utility scale development with commercial scale  
25 development. We need to set the maximum PV project as

1 no greater than 500 kilowatts for commercial scale  
2 incentives. Projects larger than this should not be  
3 applicable for funding for the nonresidential bucket.  
4 SSVEC proves big projects steal money meant for  
5 distributed energy. Let utility scale projects be 500  
6 kilowatts or larger.

7 As a last note, if a company in effect acts like  
8 a utility by billing monthly, quarterly, or otherwise  
9 for kilowatt hours produced at their premises, then  
10 these companies should only have utility scale  
11 incentives available to them. Anything else undermines  
12 ethos of the REST program, which is to encourage  
13 investment by individuals and commercial energy users to  
14 make long-term investments in their operations. Paying  
15 out these rich incentives to de facto utility companies  
16 is paramount to insider trading.

17 Again, I have covered a lot of points, my most  
18 salient being it has got to be a first come/first serve  
19 process and make this easy. If our money gets spent by  
20 September, so be it, but at least all the projects are  
21 ready to go in the ground and as under contract.

22 CHMN. MAYES: Mr. Provino, thanks for being  
23 here. And I have heard over the last year or so a  
24 number of critiques of the utilities' reservations  
25 system and I know there is a lot frustration out there

1 by developers.

2 I am not sure I agree with your recipe to fix  
3 it, though, because it seems to me, I mean I think you  
4 are right, the reservation process needs to be  
5 straightforward, but isn't the issue that the  
6 reservation process is getting clogged up with projects  
7 that are not real and wouldn't a better fix be for APS  
8 to implement, for instance, some sort of down payment or  
9 some sort of requirement on the front end, that you put  
10 down money so that projects that aren't real get weeded  
11 out and projects that are real can go forward?

12 I mean, to me, a signed contract, I mean you  
13 could sign a contract with anybody, right? Then all you  
14 have got -- I mean that doesn't seem to me to prove that  
15 a developer and a client are ready to move forward and  
16 have the money to move forward.

17 MR. PROVINO: Chairman Mayes and Commissioners,  
18 I wholeheartedly agree. A signed contract may need not  
19 necessarily be the best benchmark and maybe a down  
20 payment of money to the solar integrator being that bar  
21 which then protects the client, our -- your customers'  
22 incentive monies.

23 And, yes, this pipeline has been clogged. And  
24 it continues to be clogged. The auction process will do  
25 the exact same thing as 2009. They will reserve the

1 money; projects will not happen.

2 I did coin the term phantom projects to describe  
3 exactly what you are saying and what is taking place,  
4 why a 100 kilowatt project for an Arizona company that  
5 has operated here for 10, 20 years can't go forward with  
6 their project because the uncertainty of the incentives.

7 Where is the 48.1 megawatts? I harken back to  
8 the Wendy's commercial: Where is the beef? Where is  
9 the solar, APS? I need to see this. It is not  
10 happening. It is not in the news. I don't know where  
11 these projects are and why they are taking our incentive  
12 monies and preventing shovel-ready work from going  
13 forward.

14 CHMN. MAYES: Okay. Well, we will ask where is  
15 the beef, Mr. Provine.

16 Commissioner.

17 In just a second let me have a chance to ask the  
18 company, because I do have questions on this issue for  
19 them.

20 Commissioner Newman.

21 COM. NEWMAN: I thank you for coming forward.  
22 We have talked before about some of the frustrations  
23 that you have reiterated today. The Chair just  
24 mentioned some sort of bonding, well, I am putting my  
25 own twist on that, but some sort of earnest money or, I

1 would even say, bonding money to sort out the real  
2 projects from the other projects.

3           When I talked to the companies about this, you  
4 know, the incumbents, they tell me, well, there is don't  
5 believe everything you say, everything you hear, that  
6 some of these companies are legit and some are not. And  
7 we have -- you know, it is our job to weed out the, you  
8 know, good wheat from the bad wheat. And so that's why  
9 it takes a long time. And we say okay to these projects  
10 that we know that, in the interest of who I don't know,  
11 but, you know, we know it is in the interest of our  
12 company to go through with it because it is a good  
13 partner, maybe good, you know, good financial risk  
14 level. But I am trying to have a debate about what they  
15 say to Commissioners on the other side. This is what I  
16 hear.

17           So what would you say to that sort of criticism  
18 of you folks? And we are sort of here as arbiters.

19           MR. PROVINO: Fair enough, Commissioner Newman,  
20 Chairman Mayes. This is a problem with my industry,  
21 where people will submit reservation forms for projects  
22 that are phantoms, maybe not happening this year, 2013.  
23 Why are we allocating money for projects in 2013? PV  
24 costs are going down. We are giving the richest 25 cent  
25 kilowatt hour incentive to projects that are three years

1 down the road, two years down the, one year down the  
2 road even, over-incentivizing projects, taking the money  
3 out of 2009, going forward. I mean, for the great  
4 recession, how would we have such a bumper year for  
5 solar reservations? In the great recession, guys, I  
6 mean, whoa, I am blown away. But then I am told, well,  
7 some of these are happening later, yada yada. That's  
8 what I am trying to drive at.

9           Also what I am driving at is the size of these  
10 projects. When you have a two megawatt bar for  
11 distributed energy projects, that's a huge amount of  
12 your incentive money tied up, gone. Is it going to  
13 happen?

14           Well, do you know what space you need for two  
15 megawatts? Eight acres; with the most highly efficient  
16 PV, maybe seven; with the barriers that are required for  
17 school safety reasons, well, we are talking about  
18 10 acres. That's a lot of land for a two megawatt cap.  
19 And that is -- you know, what is the lower bar? 100kW?  
20 That's, you know, that's a huge swath.

21           And with APS', APS' plan to have auctions every  
22 six months, I will tell you, from an industry  
23 perspective, that is a killer for sales. You will not  
24 be able to make sales unless you are dealing with  
25 institutional clients, PPAs, SSAs, et cetera. And as I

1 said in my opening comments, if you are going to act  
2 like a utility company, like Sun Edison, like SolarCity,  
3 then you get utility scale incentives. That is very,  
4 very sure in my mind. For these people to come in and  
5 act like utilities and take the richest incentives from  
6 our businesses, schools, and et cetera, who could go  
7 solar, who could make the economics work with the rich  
8 incentives that you guys have so generously had  
9 allocated, prevents this industry from going forward and  
10 also confuses everybody.

11 COM. NEWMAN: Well, we didn't have a chance to  
12 talk before this hearing about the situation. If  
13 anything -- and I have not prepared an amendment. As  
14 the Chair probably knows, I have not prepared any  
15 amendments on this. All I know is that there is a new  
16 verbiage. There is a whole new section. We have been  
17 briefed since the last rate case on this, very quickly I  
18 might add, I mean just getting up to date recently on  
19 the rules.

20 So do you have any suggestions for any of the  
21 Commissioners regarding amendments or anything like  
22 that? Because we never had a chance to coordinate on  
23 that.

24 MR. PROVINO: Certainly. Limit the system size  
25 to 500 kilowatts for a commercial scale project.

1 Anything above that comes out of your utility bucket.  
2 That's 70 percent of all money that's retained by APS  
3 for renewable energy projects. If you are going to  
4 larger than 500kW, that's where your money should come  
5 from.

6 COM. NEWMAN: And how about, how would that have  
7 related, even though I know it is in the Sulphur Springs  
8 case, with the large project that they did? Also  
9 similar type of thing, is that correct?

10 MR. PROVINO: What would happen with Sulphur  
11 Springs is the project has to be limited to 500kW in  
12 order to earn the commercial sale incentives, nothing  
13 above that. Sulphur Springs would have to apply its  
14 utility scale incentives, which are be going to be  
15 50 percent.

16 COM. NEWMAN: That makes sense to me. Anyway,  
17 that makes sense to me. Any other things? I know this  
18 is a late date, but any other, just one other idea?

19 MR. PROVINO: Yes.

20 COM. NEWMAN: I heard that one. And I wanted  
21 you --

22 MR. PROVINO: As Chairman Mayes alluded to, you  
23 need to have a better litmus test for how these monies  
24 are reserved, which effectively prevents development of  
25 solar energy in the State of Arizona. You have Mayor

1 Phil Gordon talking about being the next solar city.  
2 You have the governor talking about the solar assets.  
3 We have SunTech, an operations plant -- manufacturer or,  
4 rather, an assembly plant in the state. Are we really  
5 going to have everything tied up by professional  
6 lawyers, MBAs? I have an MBA so I am even slighting  
7 myself here. But we have professional land grabbers out  
8 there right now. They are grabbing the incentives and  
9 holding the incentives and preventing the industry from  
10 moving forward for the day when they can absolutely  
11 control this market.

12 So I believe it is the Corporation Commission's  
13 fiduciary duty to set this standard correctly, not look  
14 to APS to tell you how it is going to happen, but for  
15 you guys to look in your guts and tell us what is fair.  
16 Because right now, for the last several years, it has  
17 not been fair for the solar energy community to try and  
18 get projects off the ground.

19 COM. NEWMAN: So, just follow up on that, that's  
20 why I started talking about this, some sort of bonding  
21 mechanism or some, some sincerity money in the contract,  
22 in the contract world, and to make sure that the queues  
23 are really there and not just some sort of arbitrage.

24 MR. PROVINO: Commissioner Newman, Chairman  
25 Mayes, absolutely. I don't believe that you will be

1 able to come up with this program today in the next hour  
2 and a half or two you have available. I hope you slate  
3 this for a more complete review later. I would be more  
4 than happy to consult with you. I would be more than  
5 happy to bring real solar clients who want to go solar.  
6 But when they call APS and they are told, sorry, there  
7 is no incentive money out there, then they talk to me  
8 and say, Charles, I am not going to be a guinea pig, I  
9 am not going to be splashed on the newspaper.

10 My first client, Union Distributing, I had to  
11 use threats to get TEP to fund it. There were  
12 approximately three megawatts of solar energy  
13 reservation in front of my 90kW shovel-ready, signed  
14 contract. And I was told by Mark Ramito from TEP this  
15 was not going to happen this year. Lo and behold, with  
16 enough letters sent to the right people, my project was  
17 approved.

18 I don't want to have to go through this each  
19 time. I don't think this is a fair practice. And I  
20 don't think you are going to develop a valid solar  
21 energy industry in Arizona when you have to operate this  
22 way. I don't think that's what the Corporation  
23 Commission wants.

24 COM. NEWMAN: I thank you for your testimony. I  
25 really enjoy talking to you. You make some fine points.

1           And I, Madam Chair, I am willing to talk more  
2 about this up here. I am not sure if this is the  
3 correct day to do it, but I think I have talked to  
4 enough people to know that I think that this gentleman  
5 is on the right track in his criticism.

6           CHMN. MAYES: We will discuss it. Thank you  
7 very much.

8           MR. PROVINO: Thank you, Chairman Mayes and  
9 Commissioner.

10          CHMN. MAYES: We will discuss those points  
11 later.

12          Mark Holohan. Mark, are you still here?

13          MR. HOLOHAN: Madam Chair, Commissioners, I am  
14 Mark Holohan from Wilson Electric in Tempe.

15                 Thank you again for your support of solar  
16 energy. And I will say first that I am generally in  
17 favor of this REST filing that APS has made, but with a  
18 few changes in particular I am concerned about.

19                 I would also endorse the comments Mr. Neary  
20 made. I think we should all be happy that the program  
21 has achieved the major goal of stimulating this market  
22 so we have a lot of solar systems and other renewable  
23 energy development going on. So that's a plus. But  
24 there are a couple points that I think shouldn't be lost  
25 in the significant filing that was made.

1           Here we are about to or you are being asked to  
2 approve a plan that will ask customers to pay about  
3 9 percent higher tariffs for renewable energy, but yet  
4 in the distributed energy portion for the nonresidential  
5 market segment, there will actually be 50 percent less  
6 funding available for new projects for new customers.

7           Looking at the performance based amounts, it  
8 sounds terrific. The total amount of PBI funding will  
9 be raised from 220 million to 570 million. However,  
10 only 100 million of that is actually available for new  
11 customers paying 9 percent higher renewable tariffs to  
12 get their projects through, only 100 million out of the  
13 570 million increased from 220.

14           A big reason for that is 250 million in a  
15 program called the distributed energy RFP. And that's a  
16 huge amount to concentrate in a single program with very  
17 little transparency. Is it a single developer? I don't  
18 know. How many customers are going to benefit directly  
19 from this program? I don't know. It has been said that  
20 there will be savings for the utility ratepayer by doing  
21 this program, but yet this was a program that was bid in  
22 September, it was in fall 2008, and I could tell you  
23 that solar module prices were twice as high then as they  
24 are now. So I would question whether it really will  
25 result in savings looking forward to 2010 than the

1 auction process for performance based incentives is  
2 actually producing.

3 I am fairly close to it and I can tell you that  
4 the last auction when we were looking at a 20-year  
5 program originally, that was limited to 18 cents last  
6 summer. And when you raised the performance based  
7 incentive, it went down to 16.2 as a limit. But in  
8 actuality the auctions are producing incentives under  
9 15 cents a kilowatt hour for the program.

10 So I would urge you to include an amendment that  
11 strikes the distributed energy RFP program and puts that  
12 money back into the general performance based incentive  
13 programs so that more Arizonans who are paying  
14 90 percent greater tariffs can have the option of having  
15 programs for their enterprises that are funding that  
16 program.

17 I would also note that despite the increased  
18 popularity of the program, the large number of  
19 participants, we had auction periods that were every two  
20 months this year. And now the filing is proposed that  
21 we shrink that to only twice during the upcoming year.

22 Is that really, does that really make sense to  
23 make customers wait, do an auction, and then, if they  
24 don't make it, wait another six months to reapply for a  
25 project that they want to do? That seems to me it is

1 only a stalling tactic to delay getting projects built  
2 more quickly, finding the projects that should drop out  
3 faster, and getting new projects in place to replace  
4 them so that we can be sure that the utility will comply  
5 with its obligation.

6 CHMN. MAYES: Mr. Holohan, I have got to tell  
7 you a couple things. I totally disagree with you about  
8 the DE program. It is actually something I am very  
9 excited about. But I totally agree with you about  
10 looking at the twice yearly auction because I have heard  
11 that many times. And I will press that point with APS  
12 when we get to it.

13 So, you know, as always, I really appreciate  
14 your views. And I know how closely you watch these  
15 programs. You are one of the guys doing projects and  
16 done projects. So we appreciate that. And I didn't  
17 mean to interrupt you. So if you want to wrap up,  
18 that's fine.

19 COM. NEWMAN: DE or DG?

20 CHMN. MAYES: DE, same thing.

21 MR. HOLOHAN: The main point is do you want to  
22 narrow the program to be only \$100 million of  
23 performance based incentive funding. That's down  
24 50 percent from 2009's levels at a time when we are  
25 raising the tariff on all those customer segments,

1 especially the ones doing the non -- the distributed  
2 nonresidential programs.

3 CHMN. MAYES: Can you speak to the issue of the,  
4 of the reservation system getting clogged up with  
5 phantom projects? I mean, are you seeing that, too?

6 MR. HOLOHAN: Absolutely. And what is a phantom  
7 project? It doesn't necessarily mean there is bad  
8 intentions. A decision cycle for solar system can vary  
9 in length. And so some customers it is obvious that the  
10 owner of the company has the checkbook, is ready to pay,  
11 has a shovel-ready program. So if they are allowed to  
12 have an incentive, they can sign a contract contingent  
13 on getting an incentive and we will have a project.

14 At the other end, there are solar services  
15 agreements, large organizations with many people  
16 weighing in that have to go through quite a few steps to  
17 sign a complex contract and make sure that there  
18 actually is real funding in place.

19 Then we have the banking system. And how do we,  
20 how well can we count on the banks to actually lend  
21 money to customers who aren't used to being turned down,  
22 but now, for the first time in 2009, they go to a bank  
23 and can't get a loan. That's a very unique problem in  
24 history that we are having right now and it is very  
25 frustrating for those owners who they are sure that they

1 can afford this project and want to do that and yet we  
2 don't have a bank that supports them.

3 So there are, there are all kinds of reasons why  
4 projects will drop out. And as I have testified before  
5 here, that is a significant issue when we think we have  
6 authorized the right amount of money to get the right  
7 amount of renewable energy and it won't materialize. So  
8 how do you deal with that? You either have to have, you  
9 have to tighten the rules and/or have a bigger allowance  
10 for reservations expecting to get a dropout rate that  
11 gives you the right amount of projects so that you  
12 don't, in fact, guarantee noncompliance by the utility  
13 by only issuing reservations up to the amount of money  
14 that meets the minimum distributed energy standard. And  
15 that's the position we are in right now. We are just,  
16 just issuing enough reservations to guarantee there will  
17 be some dropout rate that assures noncompliance.

18 CHMN. MAYES: Okay. All right. Thanks. Thank  
19 you, Mark.

20 And then we have Brian Bartel. And after Brian,  
21 we have got David Townley from Infinia.

22 MR. BARTEL: Thank you, Madam Chair,  
23 Commissioners. I am Brian Bartel. I am president of  
24 Easy Energy, and we install solar water heating systems.

25 CHMN. MAYES: All right.

1 MR. BARTEL: We are the red-headed stepchild of  
2 the solar industry. But I am here today to ask you for  
3 your support in approving a plan that would allow  
4 renters a chance to benefit from the APS renewable  
5 energy program through installations of solar water  
6 heaters on multiple family housing communities by  
7 allocating single family residential funds to commercial  
8 upfront incentives. There is a lot of interest from our  
9 apartment owners for renewable energy and a lot of  
10 interest from people who want to get involved in  
11 renewable energy in apartments, but they just can't  
12 swing it because they are renting. So that's what I am  
13 asking today.

14 CHMN. MAYES: Okay. Well, thank you for being  
15 here. And I know APS has told me in the past that they  
16 are thinking of bringing a proposal to the Commission, I  
17 think, on this issue. Maybe, maybe not, I don't know.  
18 We will have them address that at least on the multiple  
19 family housing unit issue.

20 Do you have any specific language? Did you file  
21 any comments?

22 MR. BARTEL: I did.

23 CHMN. MAYES: You did?

24 MR. BARTEL: Yes. I filed a couple days ago.

25 CHMN. MAYES: Okay, all right. I will go back

1 and look at that. All right?

2 MR. BARTEL: Okay.

3 CHMN. MAYES: Any questions?

4 COM. NEWMAN: My only question was going to be  
5 if there is an amendment that you would like us to look  
6 at. You know, this is an incredibly big day in terms of  
7 going through all the companies' RPS plans. I am not  
8 sure how the Chair wants to proceed with this but there  
9 have been several suggestions of amendments of people  
10 coming up.

11 The whole Commission was involved in the APS  
12 rate case up until very, very recently. And this, you  
13 know, it was hard to do both at once. So if there is an  
14 amendment that goes to this REST issue, I would like to  
15 see it. I have not seen it yet, I am sorry, myself.

16 So, Madam Chair, I don't know what this means  
17 about the timing of all this, but...

18 CHMN. MAYES: Well, it is, it is difficult,  
19 because obviously we, we only have a couple of hours to  
20 do perhaps the most important implementation plan of the  
21 year. And if we don't have any orange paper on it, you  
22 know, then it is not going to be addressed today.

23 COM. NEWMAN: Today.

24 CHMN. MAYES: Yes, I mean we are doing the  
25 implementation plan today. We had one day to do six and

1 now we are left with two hours. So hang around, though,  
2 we will address the issue with the company. Thank you  
3 for being here.

4 Now we have David Townley.

5 MR. TOWNLEY: Madam Chair and Commissioners,  
6 thank you for the opportunity to let me bring Infinia's  
7 request before this Commission.

8 Infinia has designed and manufactured, with its  
9 partners, a concentrated dish Sterling engine solar  
10 electric system, sometimes referred to as concentrator  
11 dish Sterling systems. They are a technology provider.

12 Infinia Corporation made a request to this  
13 Commission for the Infinia solar system to be included  
14 in APS' distributed energy program and other solar  
15 electric programs. In our filing we also requested and  
16 suggested that the language in the DE program be revised  
17 from photo electric program and photo electric --  
18 photovoltaic, excuse me, photovoltaic equipment or  
19 systems to solar electric program and solar electric  
20 systems. And that is in compliance with this  
21 Commission's definition of eligible technology in the  
22 distributed energy program.

23 I would like to take a minute or so and just  
24 show you a few pictures, so something we haven't had  
25 today.

1 CHMN. MAYES: Just a couple minutes, David,  
2 because, as I understand, your issue was accepted by  
3 Staff, so...

4 MR. TOWNLEY: Thank you.

5 CHMN. MAYES: Okay, just a couple minutes.

6 MR. TOWNLEY: Just so you know what you voted on  
7 or what we are looking at, and a few here, you see New  
8 Mexico we saw single, triple in New Mexico; in Las  
9 Virginas, systems; Kennewick, systems; and 30 units --  
10 this particular place here in Villarrobledo, 30 units,  
11 it is the beginning of a one megawatt but just received  
12 Spanish approval for a 70 megawatt program on this  
13 particular site, so very expandable.

14 So APS has recently accepted a customer's  
15 distributed energy application using this program. And  
16 for that, we would thank you. Thank you, Tom, for the  
17 work you have done there. And others are under  
18 discussion. So while I filed testimony in an open APS  
19 case, an open APS docket, our issue and request applies  
20 to TEP and the other utilities under this Commission's  
21 jurisdiction as well.

22 Thank you for the opportunity.

23 CHMN. MAYES: Thank you, David. So you will be  
24 making those comments in the TEP implementation plan as  
25 well?

1 MR. TOWNLEY: Certainly will.

2 CHMN. MAYES: Thank you.

3 Commissioner Newman.

4 COM. NEWMAN: Yes. I just wanted to thank you  
5 for coming. You had given me some presentations on your  
6 technology. I think it is good technology, and in terms  
7 of the water use for sure. And I am not quite sure what  
8 the Staff recommendation is regarding your technology,  
9 but if it includes your technology in the mix that  
10 should be considered, I approve that, because one of the  
11 things that we will be looking at in the future and we  
12 are looking at right now is water use in solar. So I  
13 think this is definitely a technology that Arizona  
14 should be interested in.

15 MR. TOWNLEY: Thank you. APS, Tony shared a  
16 view of the recommendation from Staff which addressed  
17 the DE program as we were looking, but, of course, it  
18 opens it up for both the distributed energy as well as  
19 utility scale applications. And, yes, there is no water  
20 use.

21 COM. NEWMAN: And the only other question I had,  
22 like technically this could be anywhere where there is  
23 sun in Arizona, doesn't necessarily have to be in the  
24 juiciest spots of the sun. You can use this technology  
25 in an area that may not have an AMA, may have limits on

1 its water use, let's say in the San Pedro Valley and  
2 Cochise County where they are trying to keep a river  
3 flowing and things like that. You can actually put  
4 these things on the ground pretty quick and have a  
5 distributed generation technology that could be working  
6 with a rural co-op, let's say, or APS.

7 MR. TOWNLEY: Chairman Mayes and Commissioner  
8 Newman, that's exactly right. And they are very  
9 scalable. Each of these is a stand-alone AC system so  
10 can be deployed in pretty much any scale that you desire  
11 in most any place.

12 COM. NEWMAN: So Pima County could do it or  
13 Cochise County could do this, means the Commission try  
14 to figure out how to make that good with the utility  
15 companies.

16 MR. TOWNLEY: That's correct, Commissioner.

17 CHMN. MAYES: Thank you very much for coming  
18 down and staying all day.

19 Do I have any more public comment? Lori, and if  
20 you can, fill out a slip for me later.

21 MS. GLOVER: I did, I did this morning. I guess  
22 it got lost.

23 CHMN. MAYES: It got lost, sorry.

24 COM. NEWMAN: I have something, Solid Energy.

25 MS. GLOVER: Lori Glover, SOLID -- from SOLID

1 Energy. Most of our comments have been submitted with  
2 AriSEIA, but I want to raise a couple of really  
3 important things.

4 I have to tell you, this weekend I had nothing  
5 better to do with my time but when I am driving through,  
6 Christmas shopping traffic, trying to find a place to  
7 park at the mall, I am thinking, you know, Staff filed a  
8 report on Thursday, people filed comments on Friday,  
9 people filed comments on Monday, and I wanted to know,  
10 has anybody in this room read, analyzed each and every  
11 one of these pieces of paper. I would like a show of  
12 hands.

13 I am very disturbed. Think back to where we  
14 started a couple years ago. We had a uniform  
15 commercial, you know, credit purchase program. The  
16 California Go Solar website also has its program  
17 handbook right on the site, so you can go in and see  
18 what the rules are, how the system works. We have a  
19 bunch of different rules in this state for a bunch of  
20 different utilities. It makes me a little bit nervous.

21 But this is what makes me more nervous. There  
22 are significant changes being proposed today by APS.  
23 And there was no input by the stakeholders into the  
24 changes. There were meetings afterwards. But there  
25 were zero changes based on the meetings. I don't call

1 that collaboration. I am very, very concerned there is  
2 a rush to judgment. Let's go ahead and make these  
3 changes in two hours, let's not analyze these things as  
4 they should be analyzed. We were going to have a  
5 workshop. It didn't happen. I feel very strongly that  
6 a number of these issues need to be thoroughly vetted  
7 with stakeholders, with Staff and with the Commission  
8 before we actually approve them. I mean I would be so  
9 radical as to say let's just approve a surcharge keeping  
10 the program going forward for next year, look at any  
11 changes.

12 I mean I have to tell you, the program was  
13 working pretty good, you know. Nonresidential  
14 reservations are oversold. The residential people are  
15 catching up. Everybody wants the program to look a  
16 little bit differently than it does. But, gosh, do we  
17 make a bunch of changes, drastic changes, a year and a  
18 half into a program?

19 CHMN. MAYES: Well, Lori, which, I mean, first  
20 of all, I have, I believe, read almost every single  
21 piece of paper. Okay? Let me just tell you.

22 MS. GLOVER: Of course you have.

23 CHMN. MAYES: And, you know, for better or for  
24 worse.

25 MS. GLOVER: I have read all of them, too.

1 CHMN. MAYES: Right. So, you know, and I have  
2 analyzed them. I know there are -- we are making some  
3 changes. I guess I am -- which changes do you find  
4 radical and significant enough for us to hold this over?

5 MS. GLOVER: Okay. I think there are numerous  
6 changes. I think that the Flagstaff pilot is going to  
7 be in another docket.

8 CHMN. MAYES: Right.

9 MS. GLOVER: I think the RFP actually requires a  
10 waiver to the rule. Nobody seems to agree with me but I  
11 think if you really thoroughly look at history and rule  
12 language, you might decide that a waiver is required. I  
13 would hate to see us do this without a waiver without  
14 thoroughly considering does it require a waiver. At the  
15 very least, I think something like that needs to be  
16 refreshed like they are proposing for your small pilot  
17 program because it was done so early in the program.

18 The reservation changes, the phantom  
19 reservation, it is not a problem. According to APS,  
20 they only have 15 percent of reservations that drop out.  
21 15 percent, is that pretty high? I don't think so. I  
22 think you have to have reservations go in. I think you  
23 have to have customers secure that they are going to get  
24 money before they even look at the projects. So you  
25 need some kind of period.

1           So APS wants to shorten the reservation process  
2 to tighten up the process even further. That's fine, I  
3 think. They want 30 days after somebody gets approval  
4 to sign this agreement. Okay?

5           I don't know if you guys have seen this. This  
6 is a really long agreement. Okay? They sign this,  
7 makes them pretty nervous. They are going to be pretty  
8 serious about doing this project. This is not a  
9 contract for the installation. This is a contract with  
10 APS just saying we sell you our green credits. If you  
11 at the same time require that customer to have a  
12 contract signed that day, which is what APS proposed on  
13 page 221 of its October plan, didn't mention it in  
14 summary, just way in the back, you are not really going  
15 to have projects.

16           Getting the customer to contract, particularly  
17 with my technology, which is newer, it is independently  
18 engineered for each site, pretty technical, we will not  
19 be in business here in Arizona. We will not have  
20 contracts signed 30 days after we get reservations.  
21 Can't get bank financing done in that time. I am very,  
22 very concerned about that change.

23           What else? The whole, the allocation by size,  
24 the six months auction period is a little bit of a  
25 problem.

1 CHMN. MAYES: Do you think there should be more  
2 auctions or --

3 MS. GLOVER: For those of you who were here  
4 three years ago, everybody knows that I screamed loudly  
5 and longly against the auction process because I thought  
6 it was a really bad idea and I thought nobody could do  
7 business like that. I thought it was nuts. Ray  
8 Williamson really wanted it because he thought it would  
9 bring the cost down. I think Ray was right and I was  
10 wrong. I will never say that again, Ray, so...

11 It is difficult. It is unwieldy, but we have  
12 learned to live with it. I think it does, it is having  
13 an intended effect. I think we can discuss it in a  
14 workshop and listen to the people like Charles who say  
15 he is having a hard time. But it is hard for me to say  
16 let's just make a wholesale decision today without  
17 having listened to people who are having difficulties.

18 Now, six months for auction for big projects, I  
19 know APS is trying to solve a problem by lengthening  
20 that time period, but that could be really detrimental  
21 to the larger projects. And I think we want residential  
22 projects all the way up to larger projects. You know, I  
23 think we want the gamut.

24 There are just some other issues in there and I  
25 just don't know that people have looked at these in

1 terms whether or not there is a rule waiver required.  
2 And I think I wrote a bunch of issue papers a way back  
3 and got away from that myself until I got to thinking  
4 about this this weekend. And I know, Commissioner  
5 Mayes, we have talked about this before. I would love  
6 to see us do something, I hate to say similar to  
7 California, nobody wants to be like California, but, you  
8 know, when you go -- it is difficult here.

9           You know, this is not a public utility  
10 Commission. It is not. You guys have a much, much  
11 bigger job than most PUCs, right? But, you know, normal  
12 PUCs would have these rules and you have to submit your  
13 comments two weeks before the hearing. If you don't,  
14 they are not going -- they try to do things more  
15 business like so they can avoid these last minute --  
16 here it is, December 22nd, and nobody knows if we are  
17 going to have a business during January 1st because we  
18 don't know what rule changes are going to be made.

19           I would like very much to see a collaborative  
20 process throughout the year with the utilities. I would  
21 like to see Staff workshops in the spring before they  
22 write their plans and then Staff workshops, public  
23 workshops, afterwards, just one-day things with Staff's  
24 proposal then that people can comment on. I think it is  
25 going to make your job a lot easier, narrow the issues,

1 get people in agreement --

2 CHMN. MAYES: Okay.

3 MS. GLOVER: -- a lot more process.

4 CHMN. MAYES: I am going to have to cut you off.  
5 Lori, I don't disagree with you about the need for some  
6 additional massaging of these issues. I will say the  
7 California Public Utilities Commission has thousands of  
8 employees. We have -- literally thousands of  
9 employees -- and we have, you know, 300. And that's  
10 dwindling as a result of the legislature's cuts to us  
11 and other state agencies. So we have certain budget  
12 realities. We have certain process realities here at  
13 the Commission that they don't have in California.

14 MS. GLOVER: No, I understand that. And I  
15 think by running these things through Staff, limited  
16 time, it is going to make your job a lot easier because  
17 we will come to more agreement.

18 CHMN. MAYES: Okay. We will talk to Staff. I  
19 am going to ask Staff about the UCCP process and whether  
20 we need to kick start that again. So okay.

21 MS. GLOVER: Just finally, I know you said it is  
22 late for amendments, but if we have the 30-day contract  
23 requirement that was kind of snuck in there, we are  
24 going to have a pretty serious problem. I just want to  
25 raise that as an issue.

1 CHMN. MAYES: Okay. Well, we will ask APS to  
2 respond to that. Thank you.

3 MS. GLOVER: Thank you.

4 CHMN. MAYES: Okay. Any other public comment?  
5 (No response.)

6 CHMN. MAYES: No. All right. Let's go to  
7 Mr. Wakefield or Mr. Alston. Tom, did you want to --  
8 okay, Scott.

9 MR. WAKEFIELD: Scott Wakefield for the Solar  
10 Alliance. And especially in light of your time  
11 limitations, I think with the supplemental Staff report,  
12 the amended Staff report, I think the Alliance's issues  
13 with respect to the AZ Sun program are addressed there  
14 adequately, so I don't think we need any more of your  
15 attention today. I will let you know. I will wave my  
16 hands.

17 CHMN. MAYES: If you want to jump in, feel free  
18 and grab a microphone, Mr. Wakefield.

19 All right. We have the underlying item.  
20 Actually, do you want to move it?

21 COM. PIERCE: Sure. Madam Chair, I move Item  
22 U-7.

23 CHMN. MAYES: Okay. U-7 has been moved. Why  
24 don't we start through my amendments, and then we will  
25 circle back to some of the issues that were raised by

1 some of the public commenters today, and then circle  
2 back to Staff for the question of what we do with the AZ  
3 Sun program.

4 My initial thinking is that we ought to just  
5 bifurcate it out and bring it back to the next open  
6 meeting in January, the whole thing, all 100 megawatts,  
7 because I frankly have not had the opportunity to do the  
8 analysis to cross compare with the rate order. And I  
9 would personally feel more comfortable, unless there is  
10 some urgency associated with that 100 megawatts, I mean  
11 they have approval to move forward in the rate case with  
12 those projects, but I would feel more comfortable being  
13 able to analyze it. But I don't know what the druthers  
14 of my colleagues is.

15 I will move Mayes Proposed Amendment No. 1,  
16 which is essentially the same amendment that my  
17 colleagues approved in the SSVEC matter. This would  
18 create or ask APS to take a lead role in creating a Go  
19 Solar Arizona website. And I discussed that. I think I  
20 pretty thoroughly discussed it earlier.

21 Ms. Scott, do you, or, Mr. Mahrer, do you have  
22 anything to add on that in terms of your ability to get  
23 that out and show it to the Commission before you go  
24 live with it?

25 MR. MAHRER: Madam Chair, Commissioners, Eran

1 Mahrer with APS.

2           No, in general and in concept, not at all. We  
3 do think that such a website could provide a real  
4 benefit. I think that perhaps the most important thing  
5 behind the website's development is the collaborative  
6 process both with Staff and with the other utilities to  
7 ensure that we are meeting all the real market needs.  
8 And perhaps the only thing I would ask the Commission to  
9 recognize is that the mere creation of the website is  
10 step one in a long process. The process of keeping,  
11 let's say, evergreen and fresh with information is  
12 perhaps the more difficult and ongoing challenge in  
13 maintaining such a website.

14           CHMN. MAYES: Right. And so you don't see a  
15 problem with providing the kind of granular data that  
16 the CSI, the California Solar Initiative, provides the  
17 data with regard to each system that receives an  
18 incentive? And obviously you are going to need the  
19 cooperation of the other utilities in Arizona to get  
20 that data. Do you see any problems there? And do you  
21 understand what we are asking for in terms of it sort of  
22 matching up pretty closely with what they did in  
23 California, which I think is, quite frankly, pretty  
24 spectacular?

25           MR. MAHRER: Madam Chair, I think we understand

1 very clearly what it is that you are looking for in that  
2 website. We agree. I think that there was, and I want  
3 to make sure that the amendment proposed for APS here  
4 adds, the clarification I believe you had in the  
5 previous that the geographic information is by zip code.

6 CHMN. MAYES: Yes.

7 MR. MAHRER: One other note that I wanted to  
8 bring to your attention, in your amendments specific to  
9 APS, you include reference to an initiative that we have  
10 called our solar calculator.

11 CHMN. MAYES: Right.

12 MR. MAHRER: More than happy to bring a  
13 connection between what we will call the Go Solar  
14 Arizona website and our website with that calculator.  
15 Importantly, that calculator must reside on your website  
16 because of the way it interacts with our customer  
17 information system.

18 CHMN. MAYES: Okay. Can you provide links to  
19 it?

20 MR. MAHRER: Absolutely, absolutely.

21 CHMN. MAYES: Okay. Prominent links to it?

22 MR. MAHRER: I think that's the only way.

23 CHMN. MAYES: Make sure it is prominent when we  
24 see it. And when is that, Eran, when is that scheduled?  
25 When are you going to have that available?

1 MR. MAHRER: We are working with our own IS  
2 group to kind of schedule a number of different  
3 deployments, but our hope is to have it function third  
4 quarter of this year.

5 CHMN. MAYES: Of 2010?

6 MR. MAHRER: I am sorry, correct. Thank you for  
7 the clarification.

8 CHMN. MAYES: Are there any other questions  
9 about that amendment? No?

10 (No response.)

11 CHMN. MAYES: Okay. Seeing no -- Mr. Olea, I am  
12 sorry, I need to make the verbal amendment to the  
13 amendment. So I will move, I think it is on the second  
14 page of this amendment, on the second line after the  
15 word location, insert by postal zip code, comma, by  
16 postal zip code, comma.

17 All those in favor of that verbal amendment, say  
18 aye.

19 (A chorus of ayes.)

20 CHMN. MAYES: Opposed.

21 (No response.)

22 CHMN. MAYES: Okay. I will move Mayes Proposed  
23 Amendment No. 1 as amended. All those in favor say aye.

24 (A chorus of ayes.)

25 CHMN. MAYES: Opposed.

1 (No response.)

2 CHMN. MAYES: Okay. Mayes No. 1 passes.

3 Mayes No. 2, I want to get into a discussion  
4 with my colleagues and with the company about the small  
5 generation pilot program. And this is on page 13, line  
6 10 of the proposed order.

7 The company did awhile ago, and I probably want  
8 to ask the company exactly when they did the RFP, but  
9 awhile ago they did an RFP for small renewable energy  
10 projects. There was a great deal of frustration, I  
11 think it really started in Flagstaff quite frankly, on  
12 the part of communities and small renewable energy  
13 developers, that they weren't, they weren't, their  
14 projects weren't fitting into APS' RFPs very easily.  
15 And so APS went out and did an RFP, and lo and behold  
16 100 people showed up for, 100 developers showed up for  
17 their first phone call. They had 30 bidders and then I  
18 think only ended up choosing one or two; although, I  
19 don't know at this point. I did question the company's  
20 witnesses during the rate case about this. I don't know  
21 how many they ultimately have chosen and I don't know  
22 what has happened to those projects. It has been a long  
23 time and we still haven't seen them yet.

24 So, Mr. Mahrer, where are these projects? How  
25 many did you pick? And can you describe for the

1 Commission why you decided to only choose two? Was it  
2 because that's all you said you were going to do?

3 MR. MAHRER: Chairman, Commissioners, a number  
4 of questions you tossed out, so let me try and gather  
5 them in sequence. The RFP was issued on March 15th,  
6 2009. The response is due on May 28th of 2009. And the  
7 projects were short listed near the end of July 2009.

8 So indeed, at that time we short listed a number  
9 of projects. We have been working with those  
10 developers. We have painted this very specifically as a  
11 pilot because we knew that in developing a standard  
12 contract that would facilitate these types of small  
13 transactions, there would be some learning on both sides  
14 of the fence. And indeed we have presented contracts  
15 and had the counterparties mark those up and give us the  
16 input to make it work more broadly.

17 We have narrowed that down now to three projects  
18 in three different Arizona counties that will amount to  
19 a sum total of approximately 20 megawatts of, we will  
20 call them, small scale utility generation. In each  
21 instance, those projects involved a community partner  
22 and in some instances involved educational institutions  
23 partnered with the developer and the community to bring  
24 additional value to the equation.

25 We are very near the finish line with two and

1 almost three with the counterparties. We would expect  
2 within the next month or two of the next year we will be  
3 able to, if you will, kind of begin the actual process  
4 of developing those projects. Two of those projects are  
5 slated to begin operation, or at least, I should  
6 rephrase that, are slated to ground break in 2010.

7 COM. NEWMAN: Which counties?

8 CHMN. MAYES: Commissioner Newman, did you want  
9 to ask a question?

10 COM. NEWMAN: I was just curious which counties.

11 MR. MAHRER: The counties are Yavapai, Pima and  
12 Maricopa counties.

13 CHMN. MAYES: And what happened to the other  
14 bidders?

15 MR. MAHRER: For clarity, I have kind of a  
16 breakdown here. It is an ominous list. There were many  
17 bids. Let me rephrase that. There were bidders that  
18 proposed many projects. So in sum total you are  
19 correct. In many instances the projects were iterations  
20 of the same projects, so, for example, we can do this at  
21 a scale of four megawatts, six megawatts or 12  
22 megawatts. So you kind of -- it made it -- there were  
23 many duplicate proposals or same sites, different  
24 scales.

25 The other thing is there are a number of

1 proposals that simply did not bring what we call the  
2 community partner or one of the other provisions that  
3 was embedded in this small generation RFP, meaning we  
4 wanted the developers to recognize that these projects  
5 are important to communities and to bring out community  
6 projects. So in some instances they simply weren't  
7 conforming bids, although, in truth, a tremendous amount  
8 of interest at this scale.

9 CHMN. MAYES: So can we see those projects?

10 MR. MAHRER: For clarification, by the those do  
11 you mean the ones being selected or the long list of  
12 ones that --

13 CHMN. MAYES: I guess that's where my amendment  
14 goes. My concern is, you know, the Commission is not  
15 being given any information about the projects that lost  
16 and whether -- you know, and your views about the  
17 projects that lost. I mean I would be interested in,  
18 and I guess that's where my amendment goes and I kind of  
19 want to have a discussion with my colleagues, because my  
20 amendment also could be viewed by my colleagues that my  
21 amendment might compete with, and I wouldn't want this  
22 to be so, a potential feed-in tariff that we might adopt  
23 next year. I mean that's the kind of project that this  
24 gets at, I think.

25 So I don't want to, I don't want to trip, I

1 don't want us to trip over ourselves by adopting my  
2 amendment. On the other hand, I don't want to just let  
3 this go. I mean, and we don't -- and I am just a little  
4 bit frustrated by the opaqueness of all of this.

5 MR. MAHRER: Chairman, Commissioners, I believe  
6 we would not have any problem submitting to the  
7 Commission under confidentiality all of the bids that we  
8 were given and the analysis, the overview of our  
9 analysis.

10 CHMN. MAYES: And do you agree or disagree that  
11 these are, well, potential, could potentially benefit  
12 from a feed-in tariff?

13 MR. MAHRER: This scale project that you are  
14 talking about is one of the niches that a feed-in tariff  
15 could work and serve well.

16 CHMN. MAYES: Okay. And what is your opinion  
17 about my amendment?

18 MR. MAHRER: I believe that what we have done  
19 with the small generation RFP by having provided you  
20 with both a budget and a forecast of energy and by  
21 having approved a portion of that budget even in our  
22 2009 plan allows us to proceed in an expeditious manner.  
23 So we think we have the tools to bring those projects to  
24 you very rapidly, one of the things we believe we were  
25 charged with doing. We believe that, if indeed your

1 objective is to see if more of these are out there, that  
2 the way to do so would be to issue a second RFP rather  
3 than.

4 CHMN. MAYES: Well, let's -- do you think that  
5 my amendment allows you to do that?

6 MR. MAHRER: I think that it offers that  
7 freedom. In a sense, if you will, the way we read that  
8 is accelerate what you plan to do in 2011 to early 2010.

9 CHMN. MAYES: That's kind of where I was going.  
10 I mean my frustration really was that you were saying  
11 you were going to wait until 2011 to do another RFP, and  
12 I just didn't understand why you would do that given the  
13 results of your first RFP, which seems pretty fantastic  
14 to me.

15 MR. MAHRER: It is a fair comment. I think what  
16 we were attempting to do by no stretch was to slow the  
17 development of these small projects. We were attempting  
18 to learn from the pilot, understand whether there were  
19 opportunities to sharpen our approaches. But if it is  
20 indeed the objective to bring these more rapidly, I  
21 think we are not uncomfortable doing that.

22 CHMN. MAYES: And just for my colleagues, it  
23 doesn't bind the Commission to accept the results of  
24 their RFP. I think they would just bring those results  
25 to us.

1           Would you agree, Mr. Mahrer?

2           MR. MAHRER: I would suggest that one of the  
3 greatest benefits of the way the small generation RFP  
4 was written --

5           CHMN. MAYES: Go ahead. It's okay. Minor  
6 crisis behind us.

7           MR. MAHRER: Very well.

8           -- is the fact that we described to you an  
9 amount of energy that we were trying to fulfill and a  
10 budget to get there. And it allowed us to accept those  
11 projects without individual project approvals in a  
12 sense. What in part that the market wants with the  
13 small project is the opportunity to move quickly. I  
14 think with a second, we will call a second RFP in 2010,  
15 the budget could be written into our 2011 implementation  
16 plan and we could use exactly the same model.

17           CHMN. MAYES: Okay. Then I am going to ahead  
18 and offer my amendment for my colleagues' consideration  
19 and see where it goes.

20           Commissioner Newman.

21           COM. NEWMAN: No, I am ready to vote.

22           CHMN. MAYES: Okay. Are there any other  
23 questions or comments?

24           (No response.)

25           CHMN. MAYES: Okay. All right. I don't know if

1 I moved it but I will move Mayes Proposed Amendment  
2 No. 2. All those in favor say aye.

3 (A chorus of ayes.)

4 CHMN. MAYES: All those opposed.

5 (No response.)

6 CHMN. MAYES: Okay. Mayes No. 2 passes.

7 Let me offer Mayes No. 4 now. And I just, you  
8 know, I wanted to make sure that we were clear on the  
9 issue of what counted as DG and what doesn't count as  
10 DG. And I don't know if this is made more complicated  
11 by Staff's issue or Staff thinks this is necessary or  
12 not.

13 I know that the order indicates that it is  
14 Staff's view that the utility owned projects identified  
15 in this order are not distributed generation, but it  
16 wasn't clear to me that the order itself called that  
17 out. So, Mr. Olea, do you want to address that? The  
18 order refers back to, the ordering paragraphs merely  
19 refer back to the plan as approved as discussed herein.  
20 So my amendment would make it clear in the ordering  
21 paragraphs.

22 MR. OLEA: And, Madam Chair, Commissioners, we  
23 don't have any problem with your amendment. It  
24 basically just spells out what the rule says and it does  
25 make it clear that the non, that the nonutility

1 obligation applies to the nonresidential, which is a  
2 little confusing when you read the rule. But Staff is  
3 interpreting the rule just the way you have it in this  
4 amendment. So if it is necessary or not, it is, you  
5 know, kind of like a, you know, it is kind of, like a  
6 former Commissioner said, if the words are in the order,  
7 just makes things a little clearer.

8 CHMN. MAYES: Exactly. He is a wise guy, a wise  
9 man. Now he is registering the contractors.

10 Commissioner Newman.

11 COM. NEWMAN: Yes. You know, I think we should  
12 have him as sort of like an extra counselor or  
13 something. If he wants to come and give us his advice,  
14 he really should. I am inviting him.

15 CHMN. MAYES: Commissioner emeritus. Well, I  
16 channel him every time I get the chance so...

17 Does APS have any thoughts on that?

18 MS. SCOTT: Chairman Mayes, Commissioners, yes,  
19 we do. And it really is a legal interpretation of the  
20 rules. And in our Flagstaff docket we actually filed  
21 something that actually talked about the legal  
22 discussion.

23 When you look, and I hope I don't put you to  
24 sleep with this legal techno talk here, but if you  
25 actually look at the language of 1805, there is a

1 provision that talks about nonutility and another one  
2 that refers to utility ownership. And even going back  
3 from there, if you look in the context of the rules,  
4 distributed energy, there are two components that are  
5 required. One is that the electric generation must be  
6 located at a customer site, sited at their premises, and  
7 that it either provides electric energy to the customer  
8 load on that site or it provides wholesale capacity and  
9 energy to the local utility for use by multiple  
10 customers in a contiguous substation service area. And  
11 those components also recur in the definition of  
12 distributed solar electric generator. So there is no  
13 discussion about the ability for a utility to own the  
14 facilities, that they are required to be sited on the  
15 site.

16           The single exception is on the point of  
17 wholesale distributed energy. And that's where the rule  
18 specifies that nonutility owners of renewable energy may  
19 deliver wholesale power to a utility, if transmission  
20 lines are greater than 69k, are not required to deliver  
21 the load. So, and in fact, if you look at 1805, one  
22 part, Section D, talks about nonresidential, nonutility  
23 applications; Section E talks about nonutility owned  
24 generation.

25           So from a technical legal perspective, statutory

1 interpretation had the nonresidential, nonutility  
2 application supposed to -- if the intent was that it  
3 went to utility ownership, you could argue that it  
4 should have been in there.

5 All that set aside, I went back digging through  
6 the transcripts because I remembered there was  
7 discussion about utility ownership when we went, when we  
8 first -- the rules were in process of being adopted.  
9 And there seemed, as I went through the transcripts, it  
10 wasn't clear. There was no clear provisions in there as  
11 to the idea of the utility owning the facility. The  
12 concerns seemed to be regarding central station, utility  
13 owned systems. And the transcripts indicated -- well,  
14 Commissioner Spitzer had discussed the ones, the TEP at  
15 Springerville, that we didn't want all this money going  
16 into the large utility scale --

17 CHMN. MAYES: Right.

18 MS. SCOTT: -- type operations.

19 So APS' position on your amendment is that  
20 rather than precluding these from being DE at this point  
21 in time, what we would propose is that we bring to you  
22 projects that we believe, and again these are customer  
23 options, if we say that these, these kinds of projects  
24 cannot be distributed energy for these nonresidential  
25 projects. We do have customers, in fact we have a

1 significant customer right now looking at a project that  
2 would be a distributed energy that is a nonresidential  
3 project. So --

4 CHMN. MAYES: Well, okay, let me stop you there,  
5 Ms. Scott, because that seems a different issue. We are  
6 talking about a 20 megawatt solar plant that you would  
7 own and operate in 2010, correct?

8 MS. SCOTT: Yes.

9 CHMN. MAYES: Yes? I mean that's one of the  
10 biggest -- this is, this is part of the problem. If you  
11 are owning it and operating it and it is on somebody  
12 else's land, that's one thing. And then there is it is  
13 on somebody else's land and they own it and they are  
14 selling it to you, they are selling the energy to you.  
15 And that, you know, that seems more customer sided to me  
16 than you guys owning and operating a 20 megawatt solar  
17 plant, because that seems like utility owned. And I  
18 don't know, you know, how that gets counted as  
19 nonresidential or commercial, basically commercial DG.  
20 And the problem is it swamps their commercial DG  
21 program. You have got all these people in this room who  
22 they could just forget about it if we were to approve  
23 this. They can go home, close up shop because there is  
24 no more commercial DG programs.

25 And I am not saying that I am opposed to APS,

1 you know, owning and rate basing potentially solar. I  
2 mean, heck, you know, we just basically approved that in  
3 your rate case. But what I am saying is you can't swamp  
4 the commercial DG program with stuff that you own and  
5 operate on your system.

6 Go ahead.

7 MR. MAHRER: Madam Chair, Commissioners, let me  
8 respond to that in a number of different ways.

9 The first is the Solar Alliance has -- I believe  
10 the place you are getting the 20 megawatt number is from  
11 Solar Alliance's comments. Indeed we are not familiar  
12 with what it is that the Solar Alliance is alluding to.  
13 There is no project for 20 megawatts. That's not in our  
14 portfolio. And the only place I can imagine the 20  
15 megawatt number came from is the small generation sum  
16 total. I think it is a speculative number.

17 Number two, I think that one of the things that  
18 I would turn to our plan and look at is that it is an  
19 attempt to look at a whole bunch of different interests.  
20 And I would say very clearly our production based  
21 incentive authorization in 2009 has met compliance for  
22 '10 and very close to 2011.

23 So it is not a matter of swamping a program.  
24 And essentially we have teed up what we think is a  
25 reasonable opportunity under the \$100 million annual

1 increase in production based incentive. We are more  
2 than happy to have a dialogue whether that is the right  
3 number or it should be more or less or any element of  
4 that, but what we are really trying to point out here is  
5 that in order to develop a sustainable renewable  
6 portfolio both for APS and our customers, a broad number  
7 of proposals are necessary. And --

8 CHMN. MAYES: Why do you have to count it as DG?  
9 If you really, if you really believe in it and it is  
10 going to happen, just count it towards your utility  
11 scale requirements.

12 MR. MAHRER: So, we are -- I am pretty familiar  
13 with the rule. I would underscore there is no utility  
14 scale requirement. There is an overall requirement and  
15 there is a distributed requirement.

16 CHMN. MAYES: That's what I am talking about.

17 MR. MAHRER: You are talking about the residual,  
18 if you will, after distributed?

19 CHMN. MAYES: Yes. What is the problem with  
20 counting it toward that?

21 MR. MAHRER: Importantly, what it affords there,  
22 there are customers at all scales, and I would  
23 underscore there are customers that are very large that  
24 want to do distributed energy projects as well. And are  
25 we -- is the, is the comment here the very large

1 customers should not be afforded the opportunity?

2 CHMN. MAYES: No. I am talking about utility  
3 owned projects.

4 MR. MAHRER: And I would underscore that there  
5 are distributed energy installations where the customer  
6 needs us to be the energy provider.

7 CHMN. MAYES: Okay. I don't know what you are  
8 talking about.

9 COM. NEWMAN: Why is that? I don't know what  
10 you are talking about.

11 CHMN. MAYES: Let's -- could you just be  
12 specific. What projects are you trying to get included  
13 in your distributed generation portfolio? Let's be  
14 transparent. Tell me what projects we are talking about  
15 right now.

16 MR. MAHRER: In specificity we are working on a  
17 project with Luke Air Force Base --

18 CHMN. MAYES: That's what I thought it was, a  
19 base.

20 MR. MAHRER: -- where the federal government  
21 must procure their energy from the utility.

22 CHMN. MAYES: So why don't you just count that  
23 towards your non-DG portfolio?

24 MR. MAHRER: But if it indeed is serving the  
25 load of that customer, why would it not be distributed

1 generation?

2 CHMN. MAYES: Why do you have to own it?

3 MR. MAHRER: The -- we work with the developer.

4 We have worked with the customer. It appears to be the

5 preference of the organize -- kind of the organized

6 group. Do we have to? I don't think that's a must.

7 CHMN. MAYES: So you want to own it and you want

8 it to count against your distributed generation

9 requirement. It seems a little selfish.

10 MR. MAHRER: So the answer, I mean I think the

11 answer is our role in ownership expedites the project

12 development.

13 CHMN. MAYES: That's great. Just don't count it

14 towards your DG requirement. I mean you are not going

15 to while I am a Commissioner. And that's why we are

16 going to offer this amendment, to make sure you don't.

17 Commissioner Newman.

18 COM. NEWMAN: Madam Chair, just, I support your

19 amendment, but I just wanted a procedural point. It is

20 five of 5:00, a lot of other things to do. I am not

21 pushing. I am just --

22 CHMN. MAYES: You are pushing me now? Really?

23 COM. NEWMAN: I am not pushing.

24 CHMN. MAYES: That's interesting.

25 COM. NEWMAN: I am pushing you, but I have got

1 to tell you that I am sensitive to come before the APS  
2 representation about us voting on this and need to vote  
3 on it this year. Not only do I have a problem is, you  
4 know, it comes, this comes on the heels of the other  
5 rate case, which I, I must admit, I am still, I am  
6 trying to get my mind cleared of all the decisions we  
7 had to make in the last APS rate case. At least for me  
8 it is an incredible mind exercise. And I am not totally  
9 sure after I have read some, I went over some of the  
10 comments in the docket, that we need to get this done.  
11 I would like to know and have the time to review  
12 potential amendments.

13 And to be honest with you, this last  
14 conversation that you just had with APS, while it was a  
15 good conversation and nothing bad, it just seems to me  
16 that there are lots of things that we don't really  
17 understand about their next year's plan. We don't  
18 understand the projects. We don't understand how they  
19 are putting out these things to bid. There is lots of  
20 things that I don't really understand.

21 And while they did a very good job of catching  
22 me before I went over to Yuma yesterday to, you know, on  
23 this AZ Sun initiative, part of this, part of their  
24 plan, which I -- it seems to make sense to me -- I may  
25 even have questions on that, which I have not been able

1 to develop today. I don't want to delay the process  
2 unduly. I am just kind of wondering.

3 CHMN. MAYES: Well, if my colleagues want to  
4 hold it over and that's their druthers, I guess we can  
5 do that. It would be, I think, unfortunate in my mind  
6 if we spent all day on SSVEC and couldn't manage to get  
7 this one done this year. This is a million customers.

8 COM. NEWMAN: I understand.

9 CHMN. MAYES: It is a million people and we just  
10 spent all day on SSVEC, so, you know.

11 COM. NEWMAN: Madam Chair.

12 CHMN. MAYES: So, you know, if my colleagues  
13 want to hold it over, they can do that. But we are --  
14 this is a huge case. I am prepared to stay as late as  
15 we need to, but if we can't hold a quorum, we can't hold  
16 a quorum. It is really up to my colleagues. And I  
17 understand there is a lot of questions about this item.

18 COM. NEWMAN: Yeah.

19 CHMN. MAYES: You know? We also have four more  
20 plants.

21 COM. NEWMAN: In the matter of justice, I know  
22 we have Graham County and Duncan and AEPCO.

23 CHMN. MAYES: TRICO.

24 COM. NEWMAN: And TRICO. And that's why I am  
25 just bringing up this point at this moment. There is

1 only so much staffs can do. You have amendments on this  
2 item. I realize after reading one of the, particularly  
3 the SOLID comments, that perhaps, you know, in the  
4 interest of trying to get this done before the end of  
5 the year, that APS may have done, may have gone outside  
6 the normal paradigms of meeting with all the  
7 stakeholders about some of these changes. Maybe they  
8 didn't but that's what I get from reading that document.

9 CHMN. MAYES: I don't think so. I disagree with  
10 Ms. Glover on this. I think we have an implementation  
11 plan that has been supplemented. It is probably the  
12 most, you know, detailed implementation plan around or  
13 that has been filed ever. And it has been supplemented  
14 because we ordered that it be supplemented, if you  
15 recall.

16 COM. NEWMAN: Yes.

17 CHMN. MAYES: So, you know, if my colleagues  
18 want to stop, let me know. But I am going to keep  
19 moving forward with my amendments.

20 Do we have any thoughts from Staff?

21 COM. NEWMAN: I don't want to stop on your  
22 amendments. I was talking about potentially stopping on  
23 the vote.

24 CHMN. MAYES: Okay. Well, let's get through the  
25 amendments and then we will talk about the vote.

1 Does Staff have any closing comments about Mayes  
2 No. 4?

3 MR. OLEA: We don't have anything further unless  
4 Ms. Alward does based on Ms. Scott's comments.

5 CHMN. MAYES: I don't think my amendments  
6 preclude us from addressing the issue in any separate  
7 docket, do you, Ms. Alward?

8 MS. ALWARD: No. I agree with you.

9 CHMN. MAYES: Okay. Mr. Mahrer.

10 MR. MAHRER: I would just, Chairman and  
11 Commissioners, I would just raise to your attention that  
12 there is a customer group that is not represented in  
13 terms of their interests on this specific subject. And  
14 so perhaps the two things, one, maybe this is an  
15 entirely AZ Sun conversation. You have talked about  
16 separating that into January. And perhaps that becomes  
17 an opportunity for more robust dialogue from interested  
18 customers, et cetera. And, number two, to respond to a  
19 point that you made, must this be distributed energy,  
20 the answer is it doesn't necessarily need to be but we  
21 ought to vet where it belongs because there is specific  
22 interest from customers to make these projects come to  
23 life.

24 CHMN. MAYES: And I don't mean to go round and  
25 round with you on this. But if you are fully subscribed

1 to your DE program as it is, why would you want to count  
2 this as DE? Unless, of course, you anticipate a bunch  
3 of projects falling out of your DE queue and you are  
4 going to replace it with this easy stuff that you are  
5 going to get on the base. Is that what you are thinking  
6 of?

7 MR. MAHRER: We have no such anticipation, quite  
8 the opposite. I guess the bottom line point is it is  
9 renewable energy; we want to ensure it counts as  
10 renewable energy, I think.

11 CHMN. MAYES: Clearly it does.

12 MR. MAHRER: And no dispute there. And I think  
13 the question is to facilitate this project, it came to  
14 us as a distributed energy opportunity, we pursued it as  
15 such. It is not clear to me where it belongs otherwise,  
16 but I am sure some dialogue can resolve that.

17 CHMN. MAYES: Well, we are having the dialogue.

18 Mr. Wakefield, is there something you want to  
19 add to the discussion? I mean you guys raised this  
20 issue, I think, initially.

21 MR. WAKEFIELD: We did raise this issue. And we  
22 do think that it is clear under the definition of the  
23 rules that such a project such as the one being  
24 discussed would not qualified as distributed energy  
25 under the rule. And we were, we are grateful to see

1 that the Staff revised recommended order adopted that  
2 position. And we would like to see that issue resolved  
3 ideally today if the Commission is prepared to resolve  
4 that issue today.

5 CHMN. MAYES: Okay. Thank you, Mr. Wakefield.

6 I am going to move Mayes No. 4. If the  
7 Commission wants to revisit this issue next month or  
8 next year, that's fine. We can certainly do that. But  
9 I would move Mayes Proposed No. 4. And if there are no  
10 other comments or concerns about it, all those in favor  
11 say aye.

12 (A chorus of ayes.)

13 CHMN. MAYES: All opposed.

14 (No response.)

15 CHMN. MAYES: Okay. Mayes 3 passes -- or, I am  
16 sorry, Mayes 4. Did I say 3? Did I say 4?

17 (An off-the-record discussion ensued.)

18 CHMN. MAYES: Colette, can you read that back.

19 (The record was read by the reporter as  
20 requested.)

21 CHMN. MAYES: Okay. So Mayes 4 passes.

22 Mayes Proposed Amendment No. 3 is an amendment  
23 that would deal with the advertising budget of the  
24 company. And I do think we ought to have a discussion  
25 about the company's advertising, which we had a pretty

1 thorough discussion of this back in the fall when we  
2 were discussing the company's failure to meet its  
3 residential requirements under the REST and the movement  
4 of the \$20 million from the school's program, or into  
5 the school's program. Under the -- I was surprised.  
6 Under the company's proposal, they actually decreased  
7 the advertising budget. And I was a little surprised by  
8 that. So my amendment obviously increases it slightly.

9 I went back and forth about whether to just hold  
10 it constant at the level that it was this year or to  
11 increase it. But I certainly think decreasing it is  
12 bizarre in the light of the company's failure to meet  
13 its residential requirements.

14 Mr. Mahrer.

15 MR. MAHRER: Chairman, Commissioners, I think  
16 that the best way to explain the decrease was simply  
17 attempting to recognize that there were significant  
18 investments in production costs behind, I will call  
19 them, mass media efforts in 2010. We were simply  
20 deploying those as scaled very similar to what we are  
21 doing in 2009. It was not intending to reflect a  
22 reduction in advertising costs.

23 Certainly there is, with the additional  
24 marketing budget, with the Go Solar Arizona website, to  
25 me those all play well together, there is absolutely no

1 resistance on our part to leverage the additional funds  
2 for purposes of managing this website and promoting it  
3 through our own programs.

4 CHMN. MAYES: Okay.

5 COM. NEWMAN: Madam Chair.

6 CHMN. MAYES: Sure, Commissioner Newman.

7 COM. NEWMAN: Yes. Well, what is the marketing  
8 message and -- number one -- and, number two, why  
9 wouldn't you want to fortify that message and brand what  
10 you are trying to do, which is get people to use solar?  
11 How are you branding it and why would you even think  
12 about using less money if you are really trying to brand  
13 it?

14 MR. MAHRER: Madam Chair, Commissioner Newman,  
15 we view 2010 as an important what I will call  
16 transformational year in our outreach in marketing  
17 efforts. Specifically we believe that it is, it is  
18 time, both through your leadership and through the  
19 advice that we have received from many stakeholders  
20 across the industry, to convert to or evolve to a  
21 message that is, rather than just an awareness campaign,  
22 a specific call to action.

23 We believe that in conjunction with our  
24 qualified contractors program, we closed some linkages  
25 that have been difficult for us, not only telling a

1 customer that there are incentives available but where  
2 to go to get a system.

3           Additionally, we believe that there are, I will  
4 call it, elevations -- that might be the right word --  
5 where outreach and marketing can happen and that, as  
6 well, through your own insight, peer-to-peer marketing  
7 and community based marketing, we will call it grass  
8 roots efforts, any term you want to apply to that, is a  
9 very effective way to cause what I will call hubs or  
10 nuclei for transformation. We have heard that term,  
11 that concept described here. We believe the opportunity  
12 in 2010 is there.

13           So I think that through a number of different  
14 approaches, we intend to approach the market with a very  
15 clear call to action message. We have put in place  
16 initiatives to address both our efforts related to that  
17 and entities that will help us accomplish that exact  
18 mission. I think that, again, a website to consolidate  
19 information across Arizona really only complements that.

20           COM. NEWMAN: And -- Madam Chair.

21           And what are we going to do about the inequity  
22 between commercial and the residential this time around  
23 to fortify the residential? I think you have gotten  
24 clear feedback from the Commission that we are very --  
25 we would like to see more residential. You have heard

1 it all day today. I even gave Sulphur Springs a hard  
2 time about it with much less of a budget than you.

3 So what are we going to do that -- and the back  
4 up question is, because one of your major solar  
5 concentrator projects fell out, does that give room to  
6 APS to expand the residential usage? The amount of  
7 money that was going to go into the PPA that fell out  
8 with --

9 I forget the company's name, Madam Chair. You  
10 are going to have to help me.

11 CHMN. MAYES: Starwood.

12 COM. NEWMAN: -- with Starwood? I never heard  
13 from you guys really. I want to hear you say you have a  
14 marketing program for residential, and especially given  
15 the fact that Starwood fell out, which was 50 percent of  
16 your commercial or something, well, a huge project that  
17 fell out. You know, what are you going to do this next  
18 year to make solar go on homes in your marketing plan?

19 MR. MAHRER: Chairman, Commissioner Newman, a  
20 few important points of clarification. The project you  
21 were referring to, I believe, is Starwood Solar I.

22 COM. NEWMAN: Yes.

23 MR. MAHRER: That was a contract. There was no  
24 budget in our implementation plan for that project. It  
25 was designed to come on line in 2011. I will

1 underscore --

2 COM. NEWMAN: But you didn't kick out --

3 MR. MAHRER: -- two or three things.

4 COM. NEWMAN: -- other people in the queue  
5 because you said okay to them preliminarily?

6 MR. MAHRER: So a follow-up to that point, we  
7 have what I will call a hard division between those  
8 funds that are used for distributed energy and those  
9 funds that are used for renewable energy in 2010. That  
10 budget division is \$74 million, a little more, for  
11 distributed energy and 10.5 for renewable generation.  
12 So the lion's share of the budget is going to  
13 distributed generation and the incentives that customers  
14 need to install those systems.

15 Our marketing budget is entirely applied towards  
16 our residential programs, entirely applied towards our  
17 residential programs, notwithstanding we support our  
18 commercial customers in those transactions and the  
19 information they need, in 2009 alone, 3500 customer  
20 installations -- I am sorry -- reservations, for point  
21 of clarity. We will have, again with the acknowledgment  
22 that there was a movement of some budget to support  
23 schools, we will have expended every dollar of our  
24 residential budget. We believe that customer interest  
25 next year will remain very strong. You know, I think we

1 have described to everyone explosive growth in our  
2 residential programs in the last four or five months of  
3 the year. We hope to see that continue through 2010.

4           So I am, I am a little, I am a little uncertain  
5 what the question was but I think hopefully by example  
6 you will see that our investment in developing a  
7 nonprofit whose specific initiative is to promote  
8 distributed renewable energy by working with lending  
9 institutions to help bring things like Solar Phoenix to  
10 life, and then by working with our installers on  
11 qualified contract programs and our own advertising  
12 marketing efforts, you will see we are trying to cover  
13 every elevation of success in the residential renewable  
14 market.

15           COM. NEWMAN: Thank you.

16           CHMN. MAYES: Right. And, you know, I reviewed  
17 your marketing, your marketing supplement to the plan.  
18 And I think it would appear to me that it has a good  
19 chance to succeed.

20           I just don't think that now is the time to pull  
21 up, you know, to take our foot off the gas when it comes  
22 to marketing and your advertising budget. You know, I  
23 think -- I have heard from, I have heard anecdotally and  
24 I think directly from APS that you have seen a huge  
25 uptick in the number of residential system applications

1 in the last couple months. I don't know if that is the  
2 result of the people going after the federal tax  
3 incentive or the fact that you went ahead and spent your  
4 marketing budget after we ordered you to this fall after  
5 we found out you weren't, but obviously we all have seen  
6 the commercials. And I think they have been effective.  
7 I still want to see Steve Nash on a solar rooftop but we  
8 will see if that ever comes to pass.

9 Mr. Alston, can you address this issue of  
10 marketing? Tom?

11 MR. ALSTON: Sorry.

12 CHMN. MAYES: Is the amendment necessary?  
13 Unnecessary? Do you guys have a view on it?

14 MR. ALSTON: Chairman Mayes.

15 CHMN. MAYES: Can you pull the microphone up,  
16 speak into it.

17 MR. ALSTON: Commissioner Mayes, I think  
18 typically more marketing dollars is a good thing. So,  
19 you know, I think we support it here.

20 CHMN. MAYES: Okay. All right. I think I have  
21 moved Mayes Proposed Amendment No. 3.

22 Oh, Mr. Olea.

23 MR. OLEA: Yes, Chairman Mayes. Staff just has  
24 a question. If the amendment passes, that would, if you  
25 go to page 3 of the order, that would increase the 4.8

1 to 5.5, which is another \$900,000. The question is do  
2 they take the 900,000 from a combination of the other  
3 programs or do we increase the adjuster to cover the  
4 extra 900,000? And so Staff's question is how did you  
5 want Staff to actually do that.

6 CHMN. MAYES: Within the budget.

7 MR. OLEA: Okay. Right. If you want it to stay  
8 within the budget, then we have to get the 900,000 from  
9 pieces of the other program. Or if you want to just  
10 increase the budget by 900,000, then we have to increase  
11 the adjuster that's on line 14 there by some amount.  
12 And I have no idea what that amount would be.

13 CHMN. MAYES: Where is the line item that says  
14 other programs, or are you just talking about other  
15 programs generically?

16 MR. OLEA: I am just talking about other  
17 programs generally, not line item.

18 CHMN. MAYES: What was APS' view on that?

19 MR. MAHRER: Our view, Chairman, Commissioners,  
20 is the budget is actually very carefully crafted. I  
21 don't think there is, if you will, short of adding -- I  
22 guess, in brief, I would recommend raising the adjuster  
23 by the amount necessary to meet that 900,000. And the  
24 impact, we believe, against the residential cap is  
25 somewhere in the vicinity of 4 cents. That's not a

1 calculated number but a benchmark.

2 CHMN. MAYES: 4 cents?

3 MR. MAHRER: About 4 cents.

4 CHMN. MAYES: And is there room in your  
5 corporate advertising budget for this?

6 MR. MAHRER: Chairman, Commissioners, I am  
7 probably not the right person to answer that question.

8 CHMN. MAYES: Who would that be?

9 Mr. Guldner.

10 MR. GULDNER: Chairman Mayes, Jeff Guldner for  
11 APS. We had already essentially moved all of the  
12 corporate advertising to support either safety or  
13 renewable energy or related programs. That amount, I  
14 think off the top of my head, is less than a million and  
15 a half. So if you add nine hundred to that, it is just  
16 not in that, it is not in that budget. And that already  
17 supplements, what we are doing now with the corporate  
18 budget already supplements the RES program without  
19 putting it through that adjuster.

20 CHMN. MAYES: Okay.

21 COM. NEWMAN: Madam --

22 CHMN. MAYES: So there is no room for your  
23 shareholders to pitch in, huh?

24 MR. GULDNER: We have already got them pitching  
25 in on that item. That would be difficult, I think, to.

1 CHMN. MAYES: Well, this is sort of why I wanted  
2 to do this matter before your rate case, because I think  
3 we would have gotten a different answer.

4 COM. NEWMAN: Madam Chair, maybe I can help him  
5 get a different answer. I don't know.

6 Give me a list of everything that you are paying  
7 for now, let's say a sign on the old Bank One Ballpark,  
8 or you just give me the list and I will -- I mean, you  
9 know, I can find something that we could switch to  
10 branding people using solar energy as opposed to  
11 marketing APS' name on some building.

12 MR. GULDNER: Chairman Mayes, Commissioner  
13 Newman, the sports, I can go all down into the sports  
14 sponsorship, which are not an APS line item. That's  
15 a Pinnacle West item.

16 COM. NEWMAN: I know. But last time I checked  
17 one of the reasons why you have got a very strong  
18 four-to-one vote on your rate increase was to help not  
19 only APS but Pinnacle West and keep the whole company  
20 afloat. You can't tell me there is something on the  
21 advertising budget of a company that sells \$3 billion  
22 worth of energy a year that we can't take and move to  
23 help brand solar.

24 MR. GULDNER: And, Commissioner Newman, like I  
25 said, there is a million two, I think it is a million

1 two, that goes into the nonspecific general corporate  
2 advertising. And all of that right now is allocated to  
3 either safety or renewables, or the renewables  
4 characters, for example. I don't believe that's in the  
5 RES. That's being developed with the corporate  
6 shareholder budgets. So that money is already being  
7 done. It is now difficult as we try to go through the  
8 cost reductions and everything else to say try and find  
9 another million or so to put in.

10 CHMN. MAYES: Okay.

11 COM. NEWMAN: I bet you if I found, had a couple  
12 days of working with you, I could find it.

13 CHMN. MAYES: Thank you, Mr. Guldner.

14 What, if we kept the advertising budget at least  
15 constant? You had proposed to reduce it, Mr. Mahrer, by  
16 how much again?

17 MR. MAHRER: Madam Chair, it was \$4.8 million is  
18 what was proposed in the implementation plan.

19 CHMN. MAYES: And what is it at now?

20 MR. MAHRER: 5.4.

21 CHMN. MAYES: 5.4. If we simply held it  
22 constant, what would the, what would the adjuster  
23 increase be?

24 MR. MAHRER: Madam Chair, you will have to  
25 forgive me. I was given a couple talking tools and I

1 know a million dollars in the RES adjuster increase is  
2 about 4 cents. I don't know whether it is prorated  
3 down. We would have to get something to help me with  
4 that. I am not sure. You can envision it would be some  
5 fraction lower.

6 CHMN. MAYES: So probably 2 or 3 cents, in that  
7 range?

8 MR. MAHRER: I think those are, those are a fair  
9 range.

10 COM. NEWMAN: Madam Chair, the only reason I  
11 wanted to say -- I appreciate your amendment, and I  
12 guess at this juncture, we are going to have to decide  
13 whether it comes out of a tariff or some other place.  
14 We basically, we had to, at least for me, I had to get  
15 down on my hands and knees and ask for just something  
16 from the corporate advertising budget and couldn't get  
17 anything. You know, I still think it is a good idea to  
18 continue a formidable advertising budget. And to me  
19 that is much more important, that branding, than the APS  
20 lines that are basically all over the planet and  
21 Arizona.

22 So, you know, I am kind of frustrated by this  
23 and feel that we did a lot last week to improve the  
24 company's position. And the least they could do is to  
25 help us meet some of this branding goals, which I think

1 is a no-brainer. It is a no-brainer for them. It helps  
2 them diversify their mix.

3 CHMN. MAYES: Yes. Okay. I am going to hold  
4 this for a moment. I am going to give APS a minute to  
5 think about that issue and give the Commissioners a  
6 minute to think about that issue, maybe think about what  
7 the Commission did last week and think about their  
8 commitment to renewable energy in Arizona and whether  
9 they can come up with at least a portion of this to at  
10 least get them to what their advertising budget was last  
11 year, or this year, which seems to make sense since they  
12 are not meeting their own compliance requirements.

13 Let's talk a little bit, if we could, I would  
14 like to go back to some of the issues that were raised  
15 by the parties or the public commenters. Could we have  
16 a discussion of the reservation system and the fact  
17 that, you know, I know I discussed this with the company  
18 in meetings and I know that you see it as an issue as  
19 well. And I know that you have elements of your plan  
20 that you think will address that issue. Can you talk to  
21 that issue, Mr. Mahrer? And also speak to, you know,  
22 this question of whether there is more that we can do,  
23 including some sort of monetary down payment  
24 requirement.

25 MR. MAHRER: Chairman and Commissioners, I will

1 acknowledge that this is a pretty challenging question.  
2 And I would say that what we are learning very quickly  
3 is that when there is a short fund, a shortfall in  
4 overall funding relative to kind of the market's  
5 desires, then everybody is quick to point fingers at the  
6 developer that can't bring projects to life, the utility  
7 that can't process reservations, you know, the wheels  
8 are falling off the bus expression.

9 I don't think that's the case. I actually think  
10 we have a well designed program. I think that we turned  
11 to -- I don't "think," I know we turned to  
12 collaborators, developers and industry representatives  
13 and talked to them about our reservation process and  
14 asked if there were opportunities to sharpen some of the  
15 milestone requirements to ensure that projects, if they  
16 really are not to come to life for whatever reason, if  
17 we are to develop methods, that we will be informed as  
18 quickly as possible so that we can re-enter those  
19 dollars back into, if you will, the incentive pool so  
20 the next customer in line can get it. I think that the  
21 processes that we proposed, accelerating a few of the  
22 milestones, are perhaps the most effective things that  
23 we can do.

24 I question the, and in fact in our dialogue with  
25 stakeholders, the idea of, we will call it, deposits or

1 down payments or earnest money against an application,  
2 whatever term you want to use. The question always  
3 comes to two things: Who pays it? Is it refundable?  
4 And if it is not refundable, who at the end of the day  
5 is penalized by that? Is it the developer that promised  
6 something to the customer? Is it the customer that  
7 didn't commit to the developer? Then at the end of the  
8 day, if we are the one holding the money, who is to  
9 blame for the relationship between the customer and the  
10 developer?

11 We think that accelerating milestones for  
12 contract signing, for credit purchase agreement signing  
13 obviates the need to press a down payment, because  
14 within the nomination periods, even as structured today  
15 with six nomination periods for all categories, if you  
16 don't hit your third day milestones nomination, that  
17 money is re-entered into the nomination pool immediately  
18 in the next reiteration. That was one of the things we  
19 looked to remedy.

20 So, in brief, I acknowledge that there is  
21 frustrations. I think we have done the right things. I  
22 think it is fair to test out whether or not those things  
23 ferret out.

24 The one thing I really want to underscore for  
25 people is the quick jump to assume the projects aren't

1 coming to life because the installations haven't  
2 happened. Remember that a customer, once they receive a  
3 reservation for some of these larger projects, has a  
4 full year to bring them to execution. That was the  
5 outcome of a collaborative process. We learned that  
6 permitting, design, procurement, and in many instances  
7 the actual physical installation can take some time.  
8 And so we believe that, and we were convinced as a  
9 group, that a year is a reasonable time for some of  
10 these projects. And indeed, the vast majority of the  
11 funds committed were only committed, you know, after our  
12 September open meeting. So those projects haven't been  
13 given an opportunity to fully execute. The ones that  
14 remain in the queue have met all the milestones, so we  
15 want to believe that those will come to life. To your  
16 original question, will they all come to life, a few  
17 more months will tell us, but I think it is fair to  
18 wait.

19 CHMN. MAYES: All right. What about of the  
20 projects that were approved as a result of the 2009  
21 implementation plan, how many have come online?

22 MR. MAHRER: Chairman, I just have to find it.

23 CHMN. MAYES: Okay. Because I guess that's --

24 MR. MAHRER: So if you will, Chairman.

25 CHMN. MAYES: Sure.

1           MR. MAHRER: We started 2009 with two  
2 production, two projects proceeding in production basis.  
3 Today 12 are in operations. Those 12, those 12 were all  
4 done, if you will, as a result of what I will call  
5 earlier commitments. And there remains others, kind of  
6 others earlier in the year. So projects are still  
7 coming to life. As a result of the, we will call it,  
8 production based incentive authorization increase in  
9 September, we now have an additional 74 projects that  
10 are in the development process.

11           CHMN. MAYES: Okay. And of those, I mean is it  
12 just flat out too soon for those to have been completed?

13           MR. MAHRER: So I think that perhaps the more  
14 comprehensive way to answer your question, those  
15 continue to meet all of the milestones. There were 28  
16 projects that were cancelled, and that's full calendar  
17 year 2009, because they did not meet their milestones.  
18 And those funds were put back into the pool.

19           I would also underscore for you that all of the  
20 projects cancelled were from two developers. So our  
21 methods kind of weed out the bad apples and they would  
22 point out the fact that the process is working.

23           CHMN. MAYES: Okay. Thank you. You hear,  
24 though, the frustration by the developer community.  
25 And, you know, is the -- are you saying to them and are

1 you saying to us just wait?

2 And, you know, can you also respond to this sort  
3 of nomination period issue? You only do two for the  
4 large scale projects? And why is that enough? I think  
5 the words of one of the developers was two nomination  
6 periods is a killer for the industry.

7 MR. MAHRER: Chairman, Commissioners, I want to  
8 underscore that the program presented in 2010 has many  
9 facets to it. Only one facet turns to two nomination  
10 cycles. We call that the largest projects. That's  
11 projects over 100 kilowatts will be able to bid into two  
12 nomination periods. Projects between 30 kilowatts and  
13 100 kilowatts will have six nomination periods, exactly  
14 as they have it today. Additionally, we have a  
15 carve-out, as we were ordered to create, for schools.  
16 That remains in an open process. There is a nomination  
17 process for upfront incentives. Those are six cycles.

18 The truly important thing to remember is that  
19 these things were kind of carefully designed. I will  
20 say that we did the best we could, but changing any one  
21 piece -- and I will give you the most important example.  
22 Within the largest project category, we have proposed  
23 \$65 million of production based incentive authorization,  
24 so two nomination periods, \$65 million. If,  
25 hypothetically, you were to divide that into six

1 periods, you would have \$10 million in each nomination  
2 period. That is not large enough to take the largest  
3 possible project we are calling distributed, or two  
4 megawatt projects. So is two megawatts the right  
5 number? It is our proposal. The point is you can't  
6 move one piece without contemplating the impacts on  
7 other areas.

8 CHMN. MAYES: Okay. Does Staff, and then we  
9 will move off of this, does Staff think that these  
10 issues need further elucidation, discussion?

11 Mr. Williamson.

12 MR. WILLIAMSON: Chairman Mayes and  
13 Commissioners, for the record, Ray Williamson from  
14 Staff.

15 Staff believes that there should be more time to  
16 think about any kind of changes that have been talked  
17 about today. In many cases, some of the suggestions  
18 that have come have only come in within the last couple  
19 of days, and although some of us have had an opportunity  
20 to read them, I am sure there are many people who have  
21 not.

22 I would say this. It is two years now. We have  
23 had two good years under our belt, 2008 and 2009. It is  
24 an appropriate time to take a look at reservations, at  
25 incentives and other details related to the program.

1 And that's something that could be done this spring.

2 You have a number of options that you could have.

3 One would be, for instance, at a Commission  
4 Staff meeting meet with Staff, talk about it, give us a  
5 directive. I would suggest we should be finished with  
6 the process by the end of May so that that will give the  
7 utilities two months to incorporate any changes that we  
8 come together with as some kind of consensus into their  
9 2011 plans that are due on July 1st.

10 CHMN. MAYES: Okay. Thank you, Ray.

11 COM. NEWMAN: I like that idea.

12 CHMN. MAYES: Yes. Okay. Well, do we -- all  
13 right. I appreciate that discussion. And I do think  
14 that all of these issues deserve a lot, a great deal  
15 more attention as we go into the next round of  
16 implementation plans.

17 So, all right. Are there any other questions on  
18 the underlying -- Mr. Guldner, do you want to -- yes.

19 COM. NEWMAN: He looks like he has good news.

20 MR. GULDNER: Chairman Mayes, Commissioners, we  
21 will -- as I said, we have been doing this -- we will  
22 find 600,000 in the budget so that we can hold the RES  
23 advertising budget flat with what it was last year and  
24 not have to seek that through a program reduction.

25 CHMN. MAYES: In the corporate budget?

1 MR. GULDNER: We will find it in the corporate,  
2 probably the advertising budget, but we will commit to  
3 doing that.

4 CHMN. MAYES: Okay. I appreciate that.

5 COM. NEWMAN: I appreciate it, too. And thank  
6 the Chair for bring her amendment which sort of forced  
7 the issue.

8 I know for myself, I would like to know a little  
9 bit more about how this is going. Like I think I have  
10 given you feedback about the commercial I like and the  
11 commercial I don't like, but that's just me. But I  
12 would like a little bit more about the psychology of the  
13 branding because there are a lot of different messages  
14 that you send out there. And one thing I learned, I  
15 have learned in the last couple of years, is that you,  
16 through repetition of the same message, that kind of  
17 cues whatever psychological response that will alert the  
18 brain that this is something I really should be doing.

19 Now is a very important part of marketing at  
20 this level and that it -- believe it or not, this  
21 commitment to the \$600,000 is very, very important to  
22 messaging. And so I thank the company for doing it.  
23 And I believe in the power of these messages changing  
24 people's behavior. I am just a little bit worried that  
25 we, even in the APS plan, we don't have enough money in

1 the queue to do everything that we want to do as quickly  
2 as we want to do it. But thank you so much for that  
3 offer.

4 CHMN. MAYES: Mr. Olea, they made the verbal  
5 commitment today to backfill the gap. If I withdrew my  
6 amendment, the recommendation in the order is for 5 --  
7 is it 5 or 4.8 million?

8 MR. OLEA: 4.8. And that was actually going to  
9 be my question, is do we -- you know, we can leave the  
10 order the way it is and just take the verbal commitment  
11 from Mr. Guldner and just go with that if that would  
12 satisfy you.

13 I think it does satisfy me. I don't know about  
14 my colleagues. But if they are okay with that, I am  
15 okay with that.

16 CHMN. MAYES: Okay. And I think that's all the  
17 amendments. Now, Commissioner Pierce, do you want  
18 to -- we need to address the AZ Sun issue.

19 Mr. Olea, what is your recommendation? I mean I  
20 threw an idea out there, but it may not be the best  
21 idea.

22 MR. OLEA: Madam Chair, Commissioners, there is  
23 actually two ways you can go. And I just need to know  
24 which way it is that you want. Let me find it, all my  
25 pieces here.

1           If we could start on page 8 of the order, and  
2 this goes to the discussion that we had with some of  
3 your amendments with regard to the rule, and that would  
4 be, and I will go through all these pieces and then we  
5 can come back and look at them one at a time, the first  
6 one would be there on line 21 and a half, after the  
7 words distributed energy, put a comma and say except as  
8 allowed by Commission rules. That's the first thing.

9           On the next page, on page 9, Finding of Fact 30,  
10 there are two things you could do there. One is you can  
11 approve the program, the AZ Sun program. And you would  
12 do that by simply putting a period after the word  
13 program there on line 14 and you would delete the rest,  
14 is one option.

15           The other option is that, same order, that same  
16 Finding of Fact, you can amend it as follows:

17           You would delete everything after the word  
18 recommended on line 14 and you would replace it with the  
19 following, I will just read it: that a decision on the  
20 AZ Sun program be deferred to no later -- let me write  
21 this in -- no later than the February 2010 open meeting  
22 in order to more thoroughly analyze the issues related  
23 to this program.

24           So that whole Finding of Fact would read as  
25 follows: Staff has recommended that a decision on the

1 AZ Sun program be deferred no later than the  
2 February 2010 open meeting in order to more formally  
3 analyze the issues related to this program.

4 Let me keep going and then we can come back. On  
5 page 11, on line 2, after the words Solar Alliance, you  
6 would just delete that sentence. That's already covered  
7 by the one we would have done earlier on page 8. And  
8 then on the last piece, would be on the bottom of page  
9 12 -- okay. I don't know if it is the bottom of page 12  
10 but it is Finding of Fact 47. You would basically, you  
11 have the same two options. You could approve the  
12 program by putting a period after the word program there  
13 on line 22 or you could do the same amendment that I  
14 read, which was deleting it, everything after the word  
15 recommended, and putting off the decision to no later  
16 than the February 2010 open meeting.

17 So those are the changes I have. If you want me  
18 to go back, we can do them one at a time. I can do it  
19 that way, make it so everybody knows what is happening.

20 CHMN. MAYES: Is there a reason why you have to  
21 wait until February to do this?

22 MR. OLEA: The only reason I picked that is  
23 because you have got the holidays. We have got to get  
24 more than APS together. We have got to get all the  
25 parties that filed comments on that and to get that on

1 the January open meeting, which is January 12th. I  
2 don't know how we are going to do that.

3 CHMN. MAYES: Okay. What gets delayed if we  
4 went until February? What is the upshot of this?

5 MR. MAHRER: Chairman, Commissioners, I am  
6 thinking that in fact perhaps nothing gets delayed by  
7 waiting as late as February. We would -- we had  
8 intention with approval of the program of soliciting the  
9 market as early as January. I am not sure whether  
10 delaying until February is a terrible delay or perhaps  
11 we could still solicit in January. I am not sure the  
12 implications.

13 CHMN. MAYES: That's what I am interested in  
14 knowing. Can you still go out and do the RFPs in the  
15 absence of an order? I just, I don't want to delay that  
16 process.

17 MR. DINKEL: Chairman, Pat Dinkel from APS.

18 The simple answer to your question is we could  
19 start the solicitations hopefully in January. That's  
20 our intent. What we would do is construct it in a way  
21 that allows multiple options in anticipation of the  
22 different options the Commission might decide. So we  
23 could initiate that and we would obviously explain to  
24 bidders, because we always have a bidders conference, we  
25 always try to explain what the solicitation entails. We

1 would explain to them the current situation we are under  
2 and add some additional clarity we would be provided in  
3 the February open meeting.

4 CHMN. MAYES: That's good to know. I mean there  
5 is intense interest in this proposal both among bidders,  
6 you know, consumers and Wall Street. I have heard them  
7 mention it on the earnings call. So there is a lot of  
8 attention on it right now. And I wouldn't want to slow  
9 down any momentum because we are having these issues.

10 MR. DINKEL: And, Chairman, if I could add, our  
11 interest, as you know, is getting projects breaking  
12 ground next year. We believe by far the best way, in  
13 fact the only way, I could really provide any sort of  
14 comfort to you to do much is through the AZ Sun program.  
15 And we want to get started on that solicitation in  
16 January in hopes, very frankly, that you would find that  
17 approach acceptable. If you wouldn't, we would  
18 obviously be back talking about what we could do.

19 CHMN. MAYES: Okay. Thank you, Pat.

20 Okay. With that explanation, I guess I am  
21 comfortable with the February date. So would my  
22 colleagues be most comfortable with that approach?

23 COM. NEWMAN: Yes.

24 COM. KENNEDY: That's fine.

25 CHMN. MAYES: Okay. Mr. Olea, can we go down

1 that line?

2 MR. OLEA: Go back to page 8, line 21 and a  
3 half, after the words distributed energy, put a comma,  
4 except as allowed by Commission rules.

5 So you wanted to just vote one at a time so I  
6 don't get confused?

7 CHMN. MAYES: Okay. I will move that we amend  
8 page 8, line 21 and a half, and add a comma after energy  
9 and the words except as allowed by Commission rules.  
10 All those in favor say aye.

11 (A chorus of ayes.)

12 CHMN. MAYES: Opposed.

13 (No response.)

14 CHMN. MAYES: Okay.

15 MR. OLEA: Go to page 9 on Finding of Fact 30.  
16 And to put it off until February, what you would do is,  
17 on line 20, delete everything after the word recommended  
18 and replace it with that a decision on the AZ Sun  
19 program be deferred to no later than the February 2010  
20 open meeting in order to more thoroughly analyze the  
21 issues related to this program.

22 CHMN. MAYES: Okay. And that was on page 9,  
23 line -- did you say page 9, line 14? I may have  
24 misheard you.

25 MR. OLEA: Yes, page 9, the Finding of Fact 30

1 starts on line 14.

2 CHMN. MAYES: Got you.

3 I would move that on page 9, line 14, Finding of  
4 Fact 30, we strike the sentence after recommended,  
5 strike the entire sentence and add the words after the  
6 word recommended that a decision on the AZ Sun program  
7 be deferred to no later than the February 2010 open  
8 meeting in order to allow a more --

9 MR. OLEA: To more normally analyze.

10 CHMN. MAYES: -- to more normally analyze the  
11 issues related to this program.

12 MR. OLEA: Program.

13 CHMN. MAYES: All those in favor of that verbal  
14 amendment say aye.

15 (A chorus of ayes.)

16 CHMN. MAYES: Opposed.

17 (No response.)

18 CHMN. MAYES: Okay.

19 MR. OLEA: Okay. Go to page 10, Finding of  
20 Fact 35. That's on line 24 of that Finding of Fact 35.  
21 Just delete the last sentence that starts with Staff  
22 does not recommend. Just totally delete that. That's  
23 taken care of by a previous change that we made.

24 CHMN. MAYES: Okay. I would move page 10, an  
25 amendment on page 10, line 24, delete the words Staff

1 does not recommend that this project qualify as  
2 distributed energy.

3 All those in favor of that verbal amendment, say  
4 aye.

5 (A chorus of ayes.)

6 CHMN. MAYES: Opposed.

7 (No response.)

8 CHMN. MAYES: Okay.

9 MR. OLEA: Okay. Page 12, line 21 and a half,  
10 Finding of Fact 47, you would do the same thing we did  
11 on Finding of Fact 30. You would delete everything  
12 after the word recommended and replace it with that a  
13 decision on the AZ Sun program be deferred to no later  
14 than the February 2010 open meeting in order to more  
15 thoroughly analyze the issues related to this program.

16 CHMN. MAYES: Okay. On page 12, line 22,  
17 Finding of Fact 47, I would move the following  
18 amendment. Strike the words after the word recommended  
19 through the entire sentence and add the words that a  
20 decision on the AZ Sun program be deferred to no later  
21 than the February 2010 open meeting in order to more  
22 thoroughly analyze the issues related on this program.

23 All those in favor of that verbal amendment say  
24 aye.

25 (A chorus of ayes.)

1 CHMN. MAYES: Opposed.

2 (No response.)

3 CHMN. MAYES: Okay.

4 MR. OLEA: The last one is on page 13, Finding  
5 of Fact 49, line 3. Just delete that last sentence that  
6 starts with Staff does not recommend.

7 CHMN. MAYES: Okay. I would move page 13, line  
8 3, strike the sentence Staff does not, the sentence that  
9 begins Staff does not recommend.

10 All those in favor say aye.

11 (A chorus of ayes.)

12 CHMN. MAYES: Opposed.

13 (No response.)

14 CHMN. MAYES: Okay.

15 MR. OLEA: That's it.

16 CHMN. MAYES: That's it? Okay. That was the  
17 biggest Staff verbal amendment I have seen ever.

18 Okay. We did all of them in succession. So do  
19 we have any other, did I miss any orange paper?

20 Mr. Mahrer.

21 MR. MAHRER: Madam Chair, Commissioners, we were  
22 playing with some wording that might help with the  
23 multifamily question brought up by one of the  
24 commenters. I don't know if that would be productive at  
25 this point.

1 CHMN. MAYES: Okay. Did you want to --

2 MR. MAHRER: I can read what we have if

3 that's --

4 CHMN. MAYES: Well, can you respond to the issue  
5 first? What are we --

6 MR. MAHRER: Absolutely. I think -- the issue  
7 is twofold. The first is there are installations at, I  
8 will call them, residential, places of residence. We  
9 can work to define that further a bit, where the total  
10 incentive being paid, think of a large apartment  
11 complex, is greater than \$75,000. Our program today  
12 doesn't afford residential incentives above \$75,000, sum  
13 total. Nor does it provide for production based  
14 incentives for residential installations. That's piece  
15 number one.

16 Piece number two is, as a result of our open  
17 meetings in September, I believe there was discussion  
18 around defining whether it applies towards residential  
19 or nonresidential within the RES distributed requirement  
20 based on the rate schedule or the, if you will, or rate  
21 schedule is the right way to say it, of the customer.  
22 And indeed there are instances where residences, again  
23 not attempting to define the term, think of multifamily  
24 housing, think of low income housing, maybe senior  
25 centers, apartment complexes, where there is a single

1 master meter, a commercial rate, but what I would  
2 personally term a residence. Those are no longer  
3 afforded a opportunity to be considered residential in  
4 our programs.

5 CHMN. MAYES: Okay. I think the issue needs a  
6 little more vetting. That's my feeling right now. I  
7 mean I am sympathetic to it and I think we need to get  
8 to the bottom of it. We don't have orange paper on it  
9 right now and I don't know if the Solar Alliance has had  
10 a chance to look at it or our Staff.

11 Has Staff analyzed that issue, Jeff?

12 MR. OLEA: No. We haven't had a chance.

13 CHMN. MAYES: I don't see -- Tom.

14 MR. ALSTON: Chairman Mayes, before we go forth,  
15 there is a couple questions I would want the people --  
16 we were talking about these, installing solar, to maybe  
17 address here.

18 The first one is why would this not count  
19 towards a commercial program. You can put a solar  
20 system on an apartment building now and it would be  
21 considered part of the commercial or the nonresidential  
22 program.

23 The other one is that when you say you are  
24 addressing low income people who live in apartments,  
25 there should be some mechanism to make sure that -- you

1 know, the landlord would own the apartment typically.  
2 The landlord would also own the system if that person  
3 was putting solar on it. And if that landlord got the  
4 residential incentive, it is not clear the landlord is  
5 low income. And it is also not clear the landlord would  
6 pass any savings caused by the solar system on to the  
7 residents.

8 I am not saying there is not a way around.  
9 Maybe they have figured something out. But those should  
10 be addressed before we --

11 CHMN. MAYES: Why don't we throw this into the  
12 bucket of things we are going to discuss. Sounds like a  
13 good idea to everybody?

14 Commissioner Newman.

15 COM. NEWMAN: Yes. The place that was  
16 introduced was that this, don't forget, this was the  
17 redheaded son that was only looking at solar heaters.  
18 And so it made some sense to me to analyze the issue,  
19 because that's the one thing that people get. And  
20 renters can be helped by that in terms of, you know,  
21 their shallower energy conservation use and a number of  
22 other things. And I am always trying to look out for  
23 some renters. But if it is only the solar water heater,  
24 that puts it into a different category.

25 MR. ALSTON: Chairman Mayes, Commissioner

1 Newman, I believe what I said was also true with solar  
2 water heaters. I mentioned a situation where the  
3 landlord installed these things and whether or not that  
4 landlord passed on the savings to the low income  
5 residents living in the apartment complex would be  
6 something that you would want to make sure was happening  
7 before you made any decisions on this.

8 CHMN. MAYES: Okay. All right. We don't, I  
9 don't see orange paper on it. And I don't see any other  
10 orange paper that we have not addressed. Do we have  
11 anything else from the bench on the APS REST plan?

12 (No response.)

13 CHMN. MAYES: No. Seeing no more discussion,  
14 Commissioner Pierce, did you move that as amended?

15 COM. PIERCE: Not yet. Madam Chair, I move  
16 Agenda Item U-7 as amended.

17 CHMN. MAYES: Okay. U-7 as amended has been  
18 moved by Commissioner Pierce.

19 Secretary, please call the roll.

20 SECRETARY BERNAL: Commissioner Kennedy.

21 COM. KENNEDY: Aye.

22 SECRETARY BERNAL: Commissioner Stump.

23 COM. STUMP: Aye.

24 SECRETARY BERNAL: Commissioner Newman.

25 COM. NEWMAN: Madam Chair, I vote aye. There is

1 a lot of good work that you did on this case and with  
2 your amendments you worked, and a lot of people did. It  
3 came so quick on the heels of the other case, it sort of  
4 made it difficult. And I am glad that we will have some  
5 more time to review some aspects of the case.

6 And I vote aye.

7 SECRETARY BERNAL: Commissioner Pierce.

8 COM. PIERCE: Yes, if I could for a moment. I  
9 have been reluctant in the past to vote on, to vote aye  
10 on any APS implementation plan for a couple reasons.  
11 But if you notice, I didn't have any orange paper today.  
12 A lot of that is largely because, whereas I thought  
13 there needed to be flexibility and it needed to be in  
14 writing, the reality was this Commission, this group of  
15 Commissioners has proven to be flexible when the  
16 industry, utility and customers come together and say  
17 we, at the end of a year, we need to have some  
18 flexibility. And the Commission has reacted. So I  
19 really appreciate that.

20 I think it is, it is a real positive step  
21 forward that we can work through these whether we have  
22 it written or not. And so I appreciate the Commission's  
23 willingness to treat this issue this way.

24 I vote aye.

25 SECRETARY BERNAL: Madam Chair Mayes.

1 CHMN. MAYES: I would echo the comments of all  
2 my colleagues. And I very much appreciate the vote  
3 today. I think it shows a united front and strong  
4 support for renewable energy in Arizona and for the  
5 direction that this particular company is taking. And,  
6 you know, we can argue over the fine details and quibble  
7 with some of the choices that are being made. And like  
8 Commissioner Newman, I look forward to further analyzing  
9 the AZ Sun program and taking a look at that and maybe  
10 making some tweaks, maybe not. But, you know, this, you  
11 know, this is, this company is making a significant  
12 effort to meet the renewable energy standard.

13 I am somewhat buoyed by the fact that they are,  
14 that they are doing better on the residential program.  
15 I am thankful that we are going to continue a robust  
16 marketing program and trying to keep the momentum going,  
17 trying to meet the residential piece of it.

18 On the commercial side, it looks like we have  
19 some work to do to make sure that, to try and smooth out  
20 this process and make sure that the developers can  
21 really operate well in this state.

22 As for our process, we have some work to do,  
23 too, I think. And I do look forward to working with  
24 Mr. Williamson and Mr. Pasquinelli and all the Staff on  
25 that. I know they are completely overworked right now

1 and they are just absolutely doing, you know, yeomen's  
2 work, fantastic work on this, on this item and all the  
3 other renewable energy items.

4           So thank you, everybody, for all the hard work  
5 on this. I vote aye.

6           By your vote of five ayes and zero nays, you  
7 pass the APS REST plan.

8           We will take an itty-bitty break and come back  
9 and finish with the rest of the renewable energy  
10 standard plans.

11           (TIME NOTED: 5:54 p.m.)

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I, COLETTE E. ROSS, Certified Reporter No. 50658 for the State of Arizona, do hereby certify that the foregoing printed pages constitute a full, true and accurate transcript of the proceedings had in the foregoing matter, all done to the best of my skill and ability.

WITNESS my hand this 30th day of December, 2009.




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COLETTE E. ROSS  
 Certified Reporter  
 Certificate No. 50658