

Sheila Sto



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E-20690A.09-0346

To: Mayes-WebEmail  
Subject: RE: New Mexico Determination PPA Not PSC

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ARIZONA CORPORATION COMMISSION  
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From: Terry Finefrock [mailto:terry.finefrock@pima.gov]  
Sent: Monday, December 28, 2009 10:15 AM  
To: Nancy LaPlaca; Valerie Rauluk; Mayes-WebEmail; Newman-Web; Bruce.Plenk@tucsonaz.gov  
Subject: New Mexico Determination PPA Not PSC

Arizona Corporation Commission  
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FYI....pesky Utility, arguing to promote its interests, protect its sales....

JAN -4 2010

**NM PRC makes decision in renewable energy case**

By SUSAN MONTOYA BRYAN (AP) – 3 days ago

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ALBUQUERQUE, N.M. — New Mexico regulators have issued an order that clears the way for customers to take advantage of third-party power purchase agreements with renewable energy developers, potentially opening the door for more investment in solar systems.

The Public Regulation Commission voted 4-1 Tuesday to largely uphold an earlier ruling by a hearing examiner, who found developers are not considered public utilities if they install, own and operate renewable energy generation equipment — such as solar panels — on a customer's property and sell the power to the customer.

Like the hearing examiner, the PRC decided such third-party agreements are legal and developers are not subject to state utility regulations because the deal involves only a single customer.

Supporters in the renewable energy industry say third-party arrangements offer an affordable way for municipal governments, private schools and other nonprofit groups to finance renewable energy systems.

PRC Commissioner Jason Marks said governments and nonprofits have been "locked out of the customer side of the renewable market" because they are ineligible for state and federal tax credits that help offset the cost of installing solar or other renewable systems.

"This decision, if it holds, opens the door to them participating," Marks said.

The state's largest utility, Public Service Company of New Mexico, and other rural electric cooperatives argue that third-party arrangements are illegal unless regulated by the state.

"Our concern is that the existing rules and tariffs don't provide adequate protection for the majority of our customers, who in effect would subsidize participants in these arrangements," PNM spokeswoman Valerie Smith said.

The utility is considering asking the commission for a rehearing before filing an appeal with the New Mexico Supreme Court. It also plans to seek legislation next year that would resolve the issue.

PRC Chairman Sandy Jones said he believes New Mexico needs to promote renewable energy development, but he voted against the order because he is concerned there are no safeguards to protect New Mexico consumers.

"This is about big business. This is about big finance companies with huge tax appetites," Jones said. "My concern is that we have these Wall Street guys coming in in an unregulated manner."

Patrick Griebel, a board member of the Renewable Energy Industry Association of New Mexico, disagreed. He said third-party arrangements have helped renewable energy markets grow in other states and that New Mexico stands to attract investment dollars that have been going elsewhere.

"The implications are huge," he said. "Who this benefits is the cities and counties and nonprofits who will be buying clean energy. It will also benefit the local contractors who are installing."

Griebel said third-party arrangements are meant to supplement only a fraction of a customer's electricity needs and utilities are still needed to provide traditional power.

Several projects, including one planned by city officials in Santa Fe, were put on hold while the PRC heard the case. Still, Griebel said investors likely will not start any projects until it's clear whether the matter will be put before the Supreme Court or settled by the state Legislature. Jones said he hopes the Legislature tackles the issue because a court battle could drag on for more than a year.