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BEFORE THE ARIZONA CORPORATION COMMISSION

1 KRISTIN K. MAYES
2 Chairman
3 GARY PIERCE
4 Commissioner
5 PAUL NEWMAN
6 Commissioner
7 SANDRA D. KENNEDY
8 Commissioner
9 BOB STUMP
10 Commissioner
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Arizona Corporation Commission

DOCKETED

APR 14 2010

DOCKETED BY nr

8 IN THE MATTER OF THE APPLICATION)
9 OF UNS ELECTRIC, INC. FOR APPROVAL)
10 OF ITS RENEWABLE ENERGY)
11 STANDARD AND TARIFF)
12 IMPLEMENTATION PLAN – WESTERN)
WIND PROJECT)

DOCKET NO. E-04204A-09-0347

DECISION NO. 71642

ORDER

13 Open Meeting
14 March 31 and April 1, 2010
Phoenix, Arizona

15 BY THE COMMISSION:

16 FINDINGS OF FACT

17 1. UNS Electric, Inc. (“UNS” or “Company”) is engaged in providing electric service
18 within portions of Arizona, pursuant to authority granted by the Arizona Corporation Commission.

19 2. On July 2, 2009, UNS filed for Commission approval of its 2010 Renewable
20 Energy Standard and Tariff (“REST”) Implementation Plan. On November 4, 2009, UNS filed a
21 supplement to its REST implementation plan (“supplement”), which included a request for
22 Commission approval of a purchased power contract.

23 3. In Decision No. 71464 (January 26, 2010), the Commission approved an amended
24 REST Implementation Plan, but did not act on UNS’ request for approval of a contract.

25 4. UNS’ July 2, 2009 filing indicated it would seek Commission approval of utility-
26 scale contracts including the entire payment stream associated with the life of each contract. In
27 UNS’ November 4, 2009 supplemental filing, the Company asked for Commission approval of the
28 Western Wind Energy Wind and Solar Project (“Western Wind”). Neither filing provides a

1 comprehensive explanation of exactly what sort of approval UNS is seeking. It would seem that
2 UNS is seeking approval of both the contract in general and specifically the financial commitments
3 UNS is making in the contract.

4 5. Staff is cognizant of UNS' interest in financial certainty regarding REST-related
5 contracts and projects. UNS will be committing significant financial resources to fund this REST-
6 related contract and likely other projects and contracts in the future. However, blanket approval of
7 such contracts and projects would commit UNS customers to paying for such projects without
8 recourse for many years and could limit the Commission's ability to review all aspects of whether
9 such contracts and projects were prudent in all aspects in the future. Staff does not believe such
10 full-blown approval is warranted at this time.

11 6. However, Staff believes that an approach similar to what the Commission did with
12 the Arizona Public Service Company ("APS") contract for concentrating solar power with the
13 Solana facility is worth consideration. In Decision No. 70531 (September 30, 2008), the
14 Commission provided limited approval of the APS' contract with the Solana facility. Such
15 approval included findings that the Solana PPA was an appropriate component of APS' energy
16 portfolio and compatible with the APS implementation plan, would meet certain REST
17 requirements, and consideration that imprudency would not result simply due to the PPA being
18 more expensive than conventional generation. The order on the Solana PPA specifically did not
19 address the prudence of the PPA, its ratemaking treatment, or approval of the PPA.

20 7. Another request UNS made in this proceeding was for a faster approval process for
21 contracts and projects. While the Commission denied that request in Decision No. 71464, to the
22 extent the Commission were to grant approvals similar to what was done with the Solana project,
23 such proceedings would generally take place more quickly than the more involved process likely
24 to be associated with any form of complete pre-approval. So, while the process being discussed
25 here is less than UNS likely desires, it could nonetheless be helpful to the Company.

26 8. The REST rules, contained in Title 14, Chapter 2, Article 18 of the Arizona
27 Administrative Code ("A.A.C.") require Affected Utilities, including UNS, to provide a percentage
28 of its total retail kilowatt-hours ("kWh) from renewable energy resources. The percentage

Staff Recommendations

14. Staff has recommended that the Commission make the following findings regarding the Western Wind contract:

- The Western Wind contract is an appropriate component of UNS' energy portfolio and is compatible with UNS' 2010 implementation plan as approved by the Commission in Decision No. 71464.
- The Western Wind contract meets the requirements for Eligible Renewable Energy Resources, pursuant to R14-2-1802.
- In any subsequent inquiry into the prudence of this, the expense of renewable energy purchased resulting from this contract should not be deemed imprudent solely because the expense is greater than for conventional generation.
- This Decision is not intended to address the prudence of the contract or its ratemaking treatment.
- This Decision does not include approval of the contract, beyond the findings contained herein.

CONCLUSIONS OF LAW

1. UNS is an Arizona public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution.

2. The Commission has jurisdiction over UNS and over the subject matter of the application.

3. The Commission, having reviewed the application and Staff's Memorandum dated March 16, 2010, concludes that it is in the public interest to make the findings contained in Finding of Fact No. 14, as discussed herein.

ORDER

IT IS THEREFORE ORDERED that the Western Wind contract is an appropriate component of UNS Electric, Inc.'s energy portfolio and is compatible with UNS Electric, Inc.'s 2010 implementation plan as approved by the Commission in Decision No. 71464.

IT IS FURTHER ORDERED that the Western Wind contract meets the requirements for Eligible Renewable Energy Resources, pursuant to R14-2-1802.

...

1 increases from 1.25 percent in 2006 to 15 percent in 2025, gradually ramping up in intervening
2 years. The current requirement is 2.5 percent for 2010, increasing in the following years. Section
3 R14-2-1802 defines Eligible Renewable Energy Resources (“ERERs”).

4 9. Staff’s analysis includes a description of the contract under consideration, and will
5 evaluate whether the contract is an appropriate part of UNS’ energy portfolio and is compatible
6 with UNS’ implementation plan and meets the applicable REST requirements.

7 **Western Wind Energy Wind and Solar Project Description**

8 10. This agreement was entered into on October 16, 2009 by UNS and Western Wind
9 Energy US Corporation (“Western Corp”). The effective date is upon ACC approval of the
10 agreement satisfactory to UNS. The Regulatory Approval provision of the agreement conditions it
11 on, among other things, approving recovery by UNS of all cost of purchasing delivered power and
12 environmental attributes and other costs incurred in this agreement in its rates. The agreement has
13 a 20 year period, commencing on the commercial operation date, which is on or before June 1,
14 2011. The facility would include 7 to 11 MW of wind generation and 300 kW of photovoltaic
15 solar generation. The facility would be located at Western Corp’s Steel Park project location near
16 Kingman, Arizona. The cost per MWh to be paid by UNS was provided to Staff pursuant to a
17 confidentiality agreement. The guaranteed generation from this facility would be 22,000 MWh per
18 contract year.

19 11. Staff believes that this resource falls within the definitions of Solar Electric
20 Resources as defined in R14-2-1802.A.10 and R14-2-1802.A.11.

21 12. In summary, Staff believes the Western Wind project is a reasonable means for
22 UNS to achieve its REST targets and assist UNS to comply with its long-term REST requirements.

23 13. Specifically, Staff believes that the Western Wind project falls within the
24 definitions contained in R14-2-1802 of Eligible Renewable Energy Resources. Staff further
25 believes that this contract is compatible with UNS’ 2010 REST implementation plan approved by
26 the Commission in Decision No. 71464 (January 26, 2010). Staff’s recommendations do not
27 include approval of the contract or its costs or prudence.

28 ...

1 IT IS FURTHER ORDERED that in any subsequent inquiry into the prudence of this, the
2 expense of renewable energy purchased resulting from this contract should not be deemed
3 imprudent solely because the expense is greater than for conventional generation.

4 IT IS FURTHER ORDERED that this Decision is not intended to address the prudence of
5 the contract or its ratemaking treatment.

6 IT IS FURTHER ORDERED that this Decision does not include approval of the contract,
7 beyond the findings contained herein.

8 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

9 BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

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11 CHAIRMAN

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12 COMMISSIONER

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14 COMMISSIONER

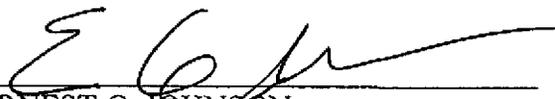
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15 COMMISSIONER

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15 COMMISSIONER

16 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
17 Executive Director of the Arizona Corporation Commission,
18 have hereunto, set my hand and caused the official seal of
19 this Commission to be affixed at the Capitol, in the City of
20 Phoenix, this 14th day of April, 2010.

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21 ERNEST G. JOHNSON
22 EXECUTIVE DIRECTOR

23 DISSENT: _____

24 DISSENT: _____

25 SMO:RGG:lbm\MAS

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