

**EXCEPTION**

**ORIGINAL**



0000115800

**OPEN MEETING AGENDA ITEM**

**BEFORE THE ARIZONA CORPORATION COMMISSION**

**RECEIVED**

COMMISSIONERS

KRISTIN K. MAYES, <sup>Arizona Corporation Commission</sup> Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

2010 AUG 20 A 11:39

**DOCKETED**

AUG 20 2010

AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF THE APPLICATION  
OF ARIZONA PUBLIC SERVICE  
COMPANY FOR APPROVAL OF ITS 2010  
ENERGY EFFICIENCY IMPLEMENTATION  
PLAN - RESIDENTIAL REPAYMENT  
FINANCING PROGRAM

DOCKET NO. E-01345A-08-0172

**EXCEPTIONS OF ARIZONA  
PUBLIC SERVICE COMPANY TO  
STAFF RECOMMENDED ORDER**

**I. INTRODUCTION**

In Decision No. 71444 (December 23, 2009), the Arizona Corporation Commission (“Commission”) ordered Arizona Public Service Company (“APS” or “Company”) to file a residential repayment financing program (“Financing Program”) as a supplement to the Company’s 2010 Energy Efficiency Implementation Plan. On February 26, 2010, APS filed the Financing Program in response to that Decision.

APS designed its Financing Program to achieve significant customer participation with minimum expenditure of customer and demand side management (“DSM”) investments. Its design utilizes capital from third-party lender and APS shareholder investment to minimize risk to the bank, and thereby reduce interest rates charged to customers without using DSM funds to “buy down” interest rates. The APS Financing Program encourages customer participation and allows customers to take advantage of a broad range of energy efficiency opportunities. The Financing Program also assists the Company in meeting the energy efficiency goals established by the Commission.

On August 11, 2010, Utilities Division Staff (“Staff”) filed a Recommended Order in this matter. The Recommended Order would approve the Financing Program, but with several material changes. Specifically, the Recommended Order would:

- 1           1.     limit the Financing Program to making only secured loans;
- 2           2.     limit loan amounts to \$10,000 or less;
- 3           3.     limit the Guarantee Reserve Account ("GRA") to \$250,000; and
- 4           4.     limit the lender's<sup>1</sup> recovery of defaulted loans from the GRA to 50% of the
- 5                     amount then owed on the energy efficiency loan.

6           APS opposes all of the above limitations and is concerned that Staff's  
7 recommendations will make the program less attractive to potential participants, increase the  
8 cost of the program to APS customers, and adversely impact the willingness of banks or other  
9 potential lenders to participate in the program.

## 10                           **II. THE FINANCING PROGRAM SHOULD NOT BE LIMITED** 11   **TO SECURED LOANS**

12           Limiting the Financing Program to secured loans will overly restrict both the scope of  
13 financing and those residential consumers willing, or even able, to participate in financing  
14 cost-effective energy efficiency improvements. APS anticipated that 80% to 90% of the loans  
15 under the Financing Program would be unsecured. Under the program, APS proposed  
16 including a secured loan offering for those customers that may not qualify for an unsecured  
17 loan or were looking for a longer repayment term.

18           APS research indicates that convenience in obtaining a loan is as important a  
19 parameter in a customer's decision to obtain a loan to perform energy efficiency measures as  
20 interest rates. The process for closing a secured loan is considerably more involved due to  
21 appraisal and loan documentation requirements, and takes substantially more time than an  
22 unsecured loan. The time required to close a secured loan is typically between three and four  
23 weeks, where the typical unsecured loan takes only three to five business days. It is doubtful  
24 that many homeowners will expend the time and effort required to obtain a secured loan for  
25 energy efficiency retrofits, especially for smaller retrofit projects. Due to the required  
26 appraisals and extensive documentation associated with secured loans, most lenders,  
27 including NBAZ, would not be willing to offer secured loans for less than \$5,000. APS had

---

28 <sup>1</sup> APS is presently negotiating with National Bank of Arizona ("NBAZ"). NBAZ is already participating in the Company's Non-Residential Energy Efficiency Financing Program.

1 anticipated significant demand for loan amounts under \$5,000 – a demand that would go  
2 unmet under the Staff proposal.

3 Another concern with Staff's proposal is that by limiting the program to only secured  
4 loans during these difficult economic times, it would exclude many homeowners from  
5 participating in the program. Some APS residential customers with good credit histories  
6 currently do not have any lendable equity in their homes due to the downturn in home values  
7 experienced in recent years. Many customers already have two mortgages, or a mortgage and  
8 a home equity line of credit; thus, they may not be in a position to take another lien against  
9 their home for a home energy retrofit, as most lenders, including NBAZ, would generally not  
10 accept a third or lower lien position. Such customers are rendered ineligible to participate in  
11 the Financing Program as a result of Staff's proposal. Many worthwhile energy efficiency  
12 improvements may not be completed.

13 APS believes that the program's underwriting standards and collections policies will  
14 mitigate risks associated with defaults. In fact, experience from similar programs nationwide  
15 indicates that defaults are extremely low. APS has conservatively budgeted for an estimated  
16 3% default rate – a default rate that is substantially higher than experienced in other  
17 programs.<sup>2</sup> The cost to cover these defaults, or even higher a (although unanticipated) default  
18 rate, is substantially lower than the cost of a direct interest rate buy-down to achieve similarly  
19 attractive interest rates for the program.

### 20 **III. THE FINANCING PROGRAM SHOULD NOT BE LIMITED** 21 **TO LOANS OF \$10,000 OR LESS**

22 The proposed REEF program will be incorporated as an element of the APS Home  
23 Performance with ENERGY STAR<sup>®</sup> program. Home Performance with ENERGY STAR<sup>®</sup> is  
24 a home audit program that encourages comprehensive whole home energy retrofits. There are  
25 significant consumer benefits to this comprehensive approach to improve home energy  
26 efficiency as compared to a piecemeal approach, as it results in additional energy savings.

27 \_\_\_\_\_  
28 <sup>2</sup> *Recent Innovations in Financing for Clean Energy*, Matthew H. Brown and Beth Conover, Southwest Energy  
Efficiency Project, October 2009, p. 17, Table 9.

1 However, the cost of these comprehensive retrofits can easily exceed \$10,000, particularly  
2 when heating, ventilation, and air-conditioning replacement is involved, which can approach  
3 \$10,000 by itself. Staff's proposal to limit financing to a maximum of \$10,000 would result  
4 in reducing the funding available that would encourage the installation of comprehensive  
5 energy efficiency measures. It would require APS residential customers to put up significant  
6 amounts of money, which has deterred many of them from making these improvements in the  
7 first place. Additionally, closing costs associated with a secured loan in the range of \$5,000  
8 to \$10,000 are a greater percentage of the loan's net proceeds than they would be for a  
9 \$20,000 loan. APS believes that the \$20,000 financing limit proposed in the initial program  
10 filing is appropriate and reasonable based on the goals of the program and the needs of  
11 customers.

#### 12 **IV. THE FINANCING PROGRAM SHOULD NOT LIMIT THE GUARANTY** 13 **RESERVE ACCOUNT TO \$250,000**

14 The GRA is at the very core of APS's Financing Program. It uses a shareholder  
15 investment to back customer loans in order to limit bank risk, and thereby keep interest rates  
16 to customers within a range acceptable to customers. The guaranty reserve model allows the  
17 bank to offer a loan program that it would not ordinarily be able to provide. The guaranty  
18 reserve model provides (1) significantly reduced fixed interest rates, (2) expanded repayment  
19 terms, (3) reasonable qualifying requirements, and (4) a partial loss reserve for defaulted  
20 loans. APS chose this model to provide better loan rates and terms for customers at a lower  
21 overall DSM program cost than a simple interest rate "buy down" that would use DSM  
22 program funds. In fact, NBAZ has indicated that it would not be able to offer a program  
23 involving a fixed reserve amount (*i.e.*, \$250,000) that does not expand with increased funding  
24 commitments as recommended by Staff.

25 The proposed GRA funding amount is established based on a percentage of the total  
26 loan pool. To achieve the interest rates that were proposed under the program, a GRA would  
27 need to be established equal to approximately 30% of the total loan pool. During the first  
28 year of the program, Staff's recommendation would result in one of two potential outcomes:

1 (1) limit the total amount of financing available (reduced from \$1.5 million to roughly  
2 \$833,000 to maintain the same 30% guaranty reserve); or (2) lower the ratio of the GRA as a  
3 percentage of the total loan amount (reducing the GRA from 30% to 16.7% on a \$1.5 million  
4 first year loan amount), which would result in higher interest rates to customers.

5 APS is concerned that Staff's recommendation to limit the GRA would significantly  
6 disrupt the basic framework of the proposed program and the willingness of lenders to  
7 participate. Capping the GRA could result in higher interest rates to customers, reduced  
8 participation in the program, potentially higher DSM costs, and potentially unaddressed  
9 energy efficiency projects.

10 **V. THE RECOVERY OF THE LENDER FROM THE GRA SHOULD NOT BE**  
11 **CAPPED AT 50% OF THE UNPAID LOAN AMOUNT**

12 Staff's recommendation to limit recovery by the lender to 50% of the unpaid loan  
13 amount would impact interest rates and detrimentally impact negotiations with the lender.  
14 NBAZ has indicated that Staff's recommended limitation on funds recoverable from the GRA  
15 could result in less attractive rates and terms for secured loans, and potentially negate their  
16 ability to offer unsecured loans through the program. NBAZ will fully pursue collection  
17 efforts both before and after the GRA is accessed to cover a default. Funds collected by the  
18 bank on an outstanding loan subsequent to accessing the GRA would be returned to reimburse  
19 the GRA account. APS believes that the terms and conditions that are being negotiated with  
20 the bank strike an appropriate balance of risk.

21 **VI. CONCLUSION**

22 The Recommended Order's four principal restrictions on the Financing Program  
23 will severely restrict the potential benefits from that Program. They do so by both  
24 dramatically limiting customer access to energy efficiency loans and significantly increasing  
25 the cost of such loans. The Company has drafted amendatory language to the Recommended  
26 Order as Attachment A. APS strongly urges the Commission to amend the Recommended  
27 Order as proposed in Attachment A and approve the Financing Program as filed.

28 //

1 RESPECTFULLY SUBMITTED this 20th day of August 2010.

2  
3 By:   
4 Thomas L. Mumaw  
5 Attorney for Arizona Public Service Company  
6

7 ORIGINAL and thirteen (13) copies  
8 of the foregoing filed this 20th day of  
9 August 2010, with:

10 Docket Control  
11 ARIZONA CORPORATION COMMISSION  
12 1200 West Washington Street  
13 Phoenix, Arizona 85007

14 COPY of the foregoing mailed, faxed or  
15 transmitted electronically this 20<sup>th</sup> day of  
16 August 2010, to:

17 See attached list of parties.

18   
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Copies of the foregoing delivered/mailed  
this 20<sup>th</sup> day of August, 2010 to:

Ernest G. Johnson  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix , AZ 85007

Maureen Scott  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix , AZ 85007

Janet Wagner  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix , AZ 85007

Terri Ford  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix , AZ 85007

Barbara Keene  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix , AZ 85007

Daniel Pozefsky  
RUCO  
1110 West Washington  
Suite 220  
Phoenix , AZ 85007

William A. Rigby  
RUCO  
1110 West Washington  
Suite 220  
Phoenix , AZ 85007

Tina Gamble  
RUCO  
1110 West Washington  
Suite 220  
Phoenix , AZ 85007

C. Webb Crocket  
Fennemore Craig  
3003 North Central  
Suite 2600  
Phoenix , AZ 85012

Kevin Higgins  
Energy Strategies, LLC  
215 South State Street  
Suite 200  
Salt Lake City, UT 84111

Michael L. Kurtz  
Boehm, Kurt & Lowry  
36 East Seventh Street  
Suite 2110  
Cincinnati, OH 45202

Kurt J. Boehm  
Boehm, Kurt & Lowry  
36 East Seventh Street  
Suite 2110  
Cincinnati, OH 45202

Dennis George  
The Kroger Company  
1014 Vine Street  
Cincinnati, OH 45202

Stephen J. Baron  
J. Kennedy & Associates  
570 Colonial Park Drive  
Suite 305  
Roswell, GA 30075

Theodore Roberts  
Sempra Energy  
101 Ash Street  
H Q 13D  
San Diego, CA 92101

Lawrence V. Robertson, Jr.  
2247 E. Frontage Road  
Tubac, AZ 85646

Michael A. Curtis  
501 East Thomas Road  
Phoenix , AZ 85012

William P. Sullivan  
501 East Thomas Road  
Phoenix , AZ 85012

Larry K. Udall  
501 East Thomas Road  
Phoenix , AZ 85012

Michael Grant  
Gallagher & Kennedy, P.A.  
2575 East Camelback Road  
Phoenix , AZ 85016

Gary Yaquinto  
Arizona Investment Council  
2100 North Central  
Suite 210  
Phoenix , AZ 85004

David Berry  
Western Resource Advocates  
P.O. Box 1064  
Scottsdale, AZ 85252

Tim Hogan  
Arizona Center for Law in the Public  
Interest  
202 East McDowell Road  
Suite 153  
Phoenix , AZ 85004

Jeff Schlegel  
SWEEP Arizona Representatives  
1167 W. Samalayuca Drive  
Tucson, AZ 85704

Jay I. Moyes  
Moyes, Sellers & Sims  
1850 North Central Avenue  
Suite 1100  
Phoenix , AZ 85004

Jeffrey J. Woner  
K.R. Saline & Associates, PLC  
160 N. Pasadena  
Suite 101  
Mesa, AZ 85201

Scott Canty  
The Hopi Tribe  
P.O. Box 123  
Kykotsmovi, AZ 86039

Cynthia Zwick  
1940 E. Luke Avenue  
Phoenix , AZ 85016

Nicholas J. Enoch  
349 North 4th Avenue  
Phoenix , AZ 85003

Karen S. White  
AFLOA/JACL-ULT  
139 Barnes Drive  
Tyndall AFB, FL 32403

Douglas V. Fant  
Law Offices of Douglas V. Fant  
3655 W. Anthem Drive  
Suite A-109 PMB 411  
Anthem, AZ 85086

Barbara Wyllie-Pecora  
27458 N. 129th Drive  
Peoria, AZ 85383

Carlo Dal Monte  
Catalyst Paper Corporation  
65 Front Street  
Suite 201  
Nanaimo, BC 0

Steve Morrison  
SCA Tissue North America  
14005 West Old Hwy 66  
Bellemont, AZ 86015

**Attachment A**

**Arizona Public Service Company  
Application for Approval of 2010 Energy Efficiency Implementation Plan  
Residential Repayment Financing Program  
Docket No. E-01345A-10-0172**

**Proposed Amendment # 1**

**Page 11, Line 24**

INSERT new Conclusion of Law:

3. The Commission does not believe the limitations suggested by Staff in Finding of Fact No. 23 are appropriate or necessary.

**Page 11, Line 25 through 26**

DELETE:

“not” and “as discussed herein”

**Page 12, Line 3 through 4**

DELETE:

“as discussed herein”

**Page 12, Lines 5 through 14**

DELETE:

Ordering Paragraphs 2, 3, 4, and 5

Make conforming changes as necessary.