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ORIGINAL

EXCEPTION

Before the Arizona Corporation Commission

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Commissioners

- Paul Newman, Chairman
- Gary Pierce
- Sandra Kennedy
- Bob Stump
- Brenda Burns

2011 MAR 25 P. 2: 03

ARIZONA CORP. COMMISSION
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EXCEPTIONS TO: OPINION AND ORDER OF JUDGE JANE RODDA,
Administrative Law Judge
Dated March 14, 2011

Docket No. E-01461A-09-0450
Net Metering Rules

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MAR 23 2011

Submitted by Intervenor:
James M. Arkoosh
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ARIZONA CORP. COMM
400 W CONGRESS STE 218 TUCSON AZ 85704

Judge Rodda has done an excellent job in summarizing the facts of the December 8, 2010 hearing. It is in the core legal analysis that the Intervenor takes exception to.

The core legal issue in this case is about whether the staff and the commission properly applied ACC Rule 14-2-2305. This issue has from the earliest filings been ignored by the Utility and Staff. Judge Rodda asked all parties in the hearing to submit legal briefs on the central legal issue. Again all parties, except the Intervenor, ignored her request. Consistently and continuously the Utility and Staff have ignored and avoided discussing and applying Rule 14-2-2305.

ACC RULE 14-2-2305: New or Additional Charges

Net Metering charges shall be assessed on a nondiscriminatory basis. Any proposed charge that would increase a Net Metering Customer's costs beyond those of other customers with similar load characteristics or customers in the same rate class that the Net Metering Customer would qualify for if not participating in Net Metering shall be filed by the Electric Utility with the Commission for consideration and approval. The charges shall be fully supported with cost of service studies and benefit/cost analyses. The Electric Utility shall have the burden of proof on any proposed charge.

This Rule is a **new** (enacted May 2009). It adds new and additional requirements when applying for a Net Metering Administrative charge: **"The charge shall be fully supported with cost of service studies and benefit/cost analysis. The Electric Utility shall have the burden of proof on any proposed charge.**

The Utility and Staff have ignored these new requirements, insisting this new rule is no different from the "fair and reasonable standard".

The Administrative Judge accepted this **without legal support**. She ignores the literal meaning of R14-2-2305 by interpreting it as no change at all .

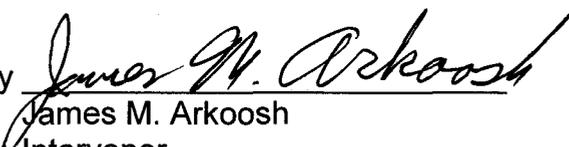
Judge Rodda fails to distinguish between the determination of a "Rate" provided solely from the Utility and the R14-2-2305 which clearly and literally requires a process where by the Utility considers alternatives through cost studies and consideration of benefit/costs, The Record and filings in this case clearly show the Utility chose a Administrative charge based on its preferred choice and never showed that it considered other options or cost/benefit analyses. In essence this case was reviewed by staff and argued under old rate case and not R142305. By not apply R14 -2-2305. The Utility has denied the Public and the Commission the analyses and data to fully review this tarrif request.

For Consideration by the Commission: Why extensively examine, develop,, hold hearings and modify the final terms of R14-2-2305 to let others conclude that this rule is the same as the old rule and need not be followed.

If so why mislead the public with a finely crafted rule that means nothing?

Guidance is requested.

Respectfully submitted this day, March 23, 2011.

By 
James M. Arkoosh
Intervenor

Original and 13 copies of the foregoing filed by hand this 23rd day of March 2011

with:

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