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Arizona Corporation Commission
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Chairman Gary Pierce
Commissioner Bob Stump
Commissioner Sandra D. Kennedy
Commissioner Paul Newman
Commissioner Brenda Burns
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Re: APS 2012 REST Implementation Plan (Docket No. E-01345A-11-0264)

Dear Chairman Pierce and Commissioners:

As the CEO of Green Choice Solar (GCS), I am writing to provide comments on APS' 2012 REST Implementation Plan. Specifically, I have serious concerns about APS' proposed options that would effectively cripple or end the Performance Based Incentive (PBI) program for the non-residential Distributed Energy (DE) market over the next five years (2012-2016). I urge the Commission to consider some other options, which I have included in the latter part of this letter, to ensure that the PBI program survives.

I founded GCS in Scottsdale in 2009. Unlike most other solar developers serving the non-residential DE market, GCS offers comprehensive services to its customers such as planning, engineering, financing, construction, maintenance and monitoring. With 14.2 MW of installed capacity by the end of 2011, GCS has emerged as the market leader in the Valley of the Sun for non-residential solar PV integration. My company has received PBI funding from APS to deploy various solar PV systems in the commercial, non-profit and school sectors. Examples of larger-scale projects include Vault Self Storage, Paradise Valley Unified School District and the Jewish Community Center.

GCS has a growing workforce of 30 employees and relies on its employees and local subcontractors to install solar PV systems. The local supply chain, which taps into 120 workers, includes Core Construction, Urban Energy, Progressive Roofing, and Skyline Steel. For financing project development, GCS has forged partnerships with Morgan Stanley, Zions Bancorporation, Biltmore Bank and National Bank of Arizona. All of these relationships, which provide a tremendous amount of economic activity in the Valley, would be threatened if the Commission chooses to adopt any of APS' proposed options.

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Non-Residential DE Compliance

According to APS REST compliance reports for 2008, 2009 and 2010, compliance for the non-residential DE program was **not** met in terms of actual installations producing energy. APS achieved 23% of the non-residential DE target in 2008, 43% in 2009 and 87% in 2010. However, in its 2009 and 2010 compliance reports, APS claimed DE compliance had been achieved when reservations were added to the absolute totals (262% in 2009 and 436% in 2010). Though I do not agree with APS' methodology for calculating non-residential DE compliance, I feel it would be counterproductive to the cause of commercial solar developers to spend too much of the Commission's time disputing data. APS has proposed at least two options that retain some semblance of a PBI program, albeit an anemic one. These options, I believe, will provide the Commission with the springboard from which new solutions can be discovered.

As you know, demand for APS' PBI program has been growing measurably over the last two years. However, many of those nominated projects have and will fall by the wayside, primarily because of the inability to secure financing. For example, in the most recent nomination round for Large Projects (February 2010), APS funding allotment (as measured in lifetime authorizations) almost doubled to \$52 million because an additional \$28 million rolled over from previous nomination periods.

By its own admission, APS cancelled a large number of projects during the fourth quarter of 2010 as the company enforced the project development milestones more strictly than before. As a result, the funds from these cancelled projects were reallocated to the 2011 PBI budget, enabling many more projects to be reserved, which exceeds the non-residential DE compliance mark.

APS 2011 REST Implementation Plan

In the consideration of the 2011 REST Implementation Plan (Decision No. 72022), Commissioner Bob Stump was persuaded by the solar industry's assertion that APS' reservation system contained many phantom or nonviable projects. As a consequence, Commissioner Stump offered an amendment to address this concern, which the Commissioners adopted unanimously. The amendment specifically ordered APS to submit a security deposit/reservation fee proposal to the Commission by January 28, 2011, as well as required that all PBI applications include an executed contract between the customer and solar installer/developer and technical specifications for the project.

APS did file its security deposit proposal by the deadline, but chose to defer its implementation until 2012. I am disappointed by APS' decision. Commissioner Stump's amendment was clearly adopted in an attempt to clean up the reservation process. In fact, the Commission believed that "APS' PBI reservation process can be strengthened and should be done so sooner rather than later." As part of the PBI application, APS has included the other two requirements, namely, a copy of a signed installation contract and the project's technical specifications. However, requiring applicants to pay security deposits for 2011 reservations would have required meeting a higher threshold.

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As I have pointed out in previous letters, any customer can receive a reservation if the project scores well enough on APS' ranking calculator. For a couple of years now, various applicants have gamed the system by overstating the estimated energy production, while specifying a lower \$/kWh amount. As a result, APS' reservation queue is filled with numerous projects that have little or no possibility of being built. I believe that if APS had implemented the security deposit earlier this year, many unfeasible projects could have been weeded out from the beginning.

Nonetheless, I am pleased to see that APS has included the Security Deposit Proposal in its 2012 Plan. The proposal is acceptable to GCS. Some solar developers may not support this proposal because of the up-front, out-of-pocket cost; however, I believe that the industry should have some "skin in the game" in order to reserve PBI projects. Therefore, I urge the Commission to adopt APS' Security Deposit Proposal without any changes advocated by other solar developers.

Allocated Funds from Cancelled PBI Projects

As a matter of informal procedure, APS has rolled over any unspent PBI funds from nomination periods or reallocated PBI funds from cancelled projects into subsequent nomination rounds. However, APS' Distributed Energy Administrative Plan (DEAP) does not explicitly articulate that current practice. Moreover, if the previous PBI attrition rate continues, I anticipate that many PBI projects reserved in the latter part of 2010 and 2011 will be cancelled. For that reason, I would like to ensure that APS continues its current practice. I would ask the Commission to require APS, as part of its DEAP, to reallocate any unspent PBI funds or funds from cancelled PBI projects to the *same* project category in the subsequent nomination period. For example, if a PBI project from the Large Projects category was cancelled, the funds should be transferred into the Large Projects category for the next nomination period. The procedure would be the same for cancelled Medium Projects.

APS' Proposed Options for 2012 REST Implementation Plan

In Section XV of the 2009 Settlement Agreement approved by the Commission (Decision No. 71448), APS agreed to exceed the current RES standard by obtaining "a mix of new distributed and non-distributed renewable energy resources." As a result, APS must acquire an additional 300 MW of renewable resources by 2016. In its 2012 Plan, APS has proposed three different procurement options to fulfill its obligations. The 300 MW gap will be filled by a combination of utility-owned projects and third-party financed projects (i.e., PPAs and DE incentives). In all the options, APS would own 150 MW; the other 150 MW, depending on the plan, would be split differently between PPAs and PBIs. However, none of the options sufficiently support the continuation of a healthy PBI program.

Assessment of the Options

Option 1 (150 MW for PPAs and 0 MW for PBIs) would eliminate funding for PBIs altogether because APS expects to meet compliance with the Non-Residential DE

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requirement based on installed projects and reservations that have yet to be completed. Option 1 would effectively shut down the PBI market for the next five years. Options 2 and 3 would allow APS to exceed its Non-Residential DE compliance. Option 2 (125 MW for PPAs and 25 MW for PBIs) would provide funding for the Medium Projects category, but eliminate funding for the Large Projects category. This option is not feasible for many solar developers because the market can support a whole host of larger projects ranging from 200 kW to 1 MW in size. (The Medium Projects category only covers projects up to 200 kW.) Option 3 (100 MW for PPAs and 50 MW for PBIs) would fund both the Medium Projects and Large Projects categories. However, due to limited funding availability, fewer large projects would come online.

PPA Comparison

I am puzzled as to why APS gives a greater preference to the PPA model over the PBI approach. According to data obtained from the arizonagosolar.org website, the average PBI cost/kWh has declined dramatically in just a few years from \$0.25 per kWh in 2008 to \$0.11 per kWh in 2011. In that same period, installed projects in the Non-Residential DE market has jumped from under 1 MW in 2008 to more than 50 MW in 2011. As you can see, while incentives per kWh are falling, installed capacity is rising. The PBI reverse auction process has been acting efficiently, driving down prices quickly and facilitating project completion faster.

Project development using the PPA model disproportionately will result in slower deployment of projects. As I pointed out previously, the PBI per kWh has dropped substantially in the last three years, becoming very cost competitive with PPAs. The advantages of PBIs are worth considering. APS' nomination process employs the reverse auction approach: The projects with the lowest PBI per kWh cost win the reservation. Over the course of a year, this dynamic is repeated for Medium Projects (six nomination periods) and Large Projects (two nomination periods). The competitive nature of this very process drives down PBIs, more effectively controlling costs for APS ratepayers.

PPAs, on the other hand, are selected from a complicated and lengthy RFP process. Time must be afforded for developing the solicitation, posting the RFP, holding a pre-proposal conference, having the RFP opening, evaluating the submitted responses, selecting the winner based on specific scoring criteria, notifying the winner and signing the contract. After the contract is signed, the winning vendor could take more than a year to complete the renewable project. By contrast, PBI projects are generally built within the year that they receive their reservations. As a matter of expeditious project deployment, the PBI approach is far superior to the PPA model.

Schools and Government Program

In all of the options, APS has proposed an expansion of the *Schools and Government Program* to \$66 million in lifetime commitments, up from the original amount of \$27 million established by the 2009 Settlement Agreement. This expansion appears to have come at the expense of the non-residential PBI program. One of the chief purposes of the program is to provide solar installation opportunities for economically disadvantaged

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school districts. By design, the third-party incentives for the program are not subject to a reverse auction like the non-residential PBI program, but are subject a project ranking *matrix*. As a consequence, the rates established by APS are higher than what could typically be obtained through the standard non-residential program for schools and government facilities. For 2012, APS is proposing to adjust the PBI rate to \$0.123 per kWh for the 15-year term and \$0.112 per kWh for the 20-year term. These set rates are likely to be higher than the current PBI cost trends.

Legacy Costs on APS Ratepayers

APS' ratepayers are obligated to pay the costs associated with RES compliance. Regardless of the financial model used – utility ownership, third party PPA or third party PBIs – legacy costs fall on APS' ratepayers. Some costs are more visible to the ratepayer than others. Utility-owned renewable assets, of which APS is proposing a significant expansion in the 2012 Plan, are rate based for a period of 30 years with a rate of return earned. Ratepayers do not see these costs itemized on their monthly bills; they are buried in base rates. For renewable PPAs, the obligation on the ratepayers continues for a steady 20 years with costs being collected through the Power Supply Adjustor (for costs associated with comparable conventional generation) and the RES adjustor (for costs above comparable conventional generation). As such, ratepayers would find it difficult to discern the actual costs of renewable PPAs. The costs of PBIs, on the other hand, are transparent to ratepayers because they are collected entirely through the RES adjustor.

In prior and current RES compliance reports and REST implementation plans, APS repeatedly underscores the cumulative lifetime commitments for the PBI program. However, the company makes no mention of the lifetime commitments, on either an aggregate or individual basis, for its numerous PPA projects and utility-owned generation, totaling 409 MW in 2012 and increasing to 869 MW by 2016. For these projects, the substantial legacy costs on ratepayers are real, albeit hidden from their view.

Even though APS' current DEAP specifies that PBIs can be paid over a 15- or 20-year term, most projects, because of the \$2.5 million lifetime payment cap, are paid off sooner (13 years in many instances). Once the PBI payments end, the obligation on the ratepayers also ceases. However, the ratepayer obligation continues for PPA projects until the contracts expire (usually a 20-year term) and for utility-owned projects until the assets are fully depreciated (which could be up to 30 years). Based on the cost duration of PPAs and utility-owned generation, the PBI finance model may provide a better cost-saving alternative for APS ratepayers.

Other Options to Consider

GCS urges the Commission to consider other options instead. I believe the non-residential PBI program should be afforded at least a 20 MW potential each year from 2012 to 2016, so that incentives are continued for both the Large Projects and Medium Projects categories. I realize that APS has expanded the *Schools and Government Program*, but many school districts would be unable to participate because they do not

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meet APS' specific eligibility requirements in the project ranking matrix based on economic criteria and the implementation of various demand-side management measures.

For example, one of GCS' largest customers, Paradise Valley Unified School District, could not access the *Schools and Government Program* because it does not meet either the old or revised per pupil bonding requirements and participation rates for the free and reduced lunch program. Paradise Valley Unified secured its incentive funding from the Large Projects category. Failure to fund the PBI program adequately would thwart the planned solar expansion at many school districts that are not economically disadvantaged and that have established partnerships with solar developers like GCS.

I am sensitive to the Commissioners concerns about any new proposal increasing the RES adjustor now or in the future. The following options balance the impact on APS ratepayers with the ability of the non-residential PBI market to remain viable over the 2012 to 2016 planning horizon. I have no preference as to which option the Commission chooses, as long as it allots at least 20 MW for the PBI program in order to sustain funding for both Medium and Large Projects. I am even open to the idea that the Commission reevaluate the PBI program in 2013 to ensure that incentive costs have declined.

Option A

APS Owned Generation	150 MW	No change from APS' options
Third Party PPAs	25 MW	125 MW less than APS' Option 3
Non-Residential PBIs	125 MW	100 MW more than APS' Option 3; continues incentives for Medium and Large Projects

Option B

APS Owned Generation	150 MW	No change from APS' options
Third Party PPAs	50 MW	100 MW less than APS' Option 3
Non-Residential PBIs	100 MW	50 MW more than APS' Option 3; continues incentives for Medium and Large Projects

Option C

APS Owned Generation	100 MW	50 MW less than APS' options
Third Party PPAs	100 MW	Reflects APS' Option 3
Non-Residential PBIs	100 MW	50 MW more than APS' Option 3; continues incentives for Medium and Large Projects

As the Commission considers GCS' comments and options, I want to underscore that the non-residential PBI program is very cost efficient for the ratepayer, results in faster

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system installations, and meets the growing demand from a wide array of customers, ranging from schools to non-profits to businesses. The economic value of distributed solar should not be discounted. As a locally based company, GCS puts as many as 120 people to work through its supply chain network. Moreover, in the wake of Arizona's real estate collapse, the non-residential DE market has offered new hope for GCS' construction subcontractors. The PBI program, with its multiple nomination periods throughout the year, has created a steady and predictable business environment for solar developers, unlike the "start and stop" regimen of the PPA approach. It would be a major setback for the Arizona economy and APS ratepayers if the PBI program is not sufficiency funded.

Please contact me should you have any questions or need more information. Thank you for your consideration in this matter.

Sincerely Yours,



Herbert Abel
CEO