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BEFORE THE ARIZONA CORPORATION COMMISSION

GARY PIERCE
Chairman
BOB STUMP
Commissioner
SANDRA D. KENNEDY
Commissioner
PAUL NEWMAN
Commissioner
BRENDA BURNS
Commissioner

Arizona Corporation Commission

DOCKETED

JUL 25 2011

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IN THE MATTER OF MOHAVE ELECTRIC
COOPERATIVE, INC.'S APPLICATION
FOR APPROVAL OF A WASTE-TO-
ENERGY FACILITY AS A PILOT
PROGRAM UNDER THE RENEWABLE
ENERGY RULES OR, IN THE
ALTERNATIVE, FOR A LIMITED
WAIVER

DOCKET NO. E-01750A-10-0453

DECISION NO. 72500

ORDER

Open Meeting
July 12 and 13, 2011
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Mohave Electric Cooperative, Inc. ("MEC" or "the Cooperative") is certificated to provide electric service as a public service corporation in the State of Arizona.

Introduction

2. On November 5, 2010, MEC filed its Application for Approval of a Waste-to-Energy Facility as a Pilot Program under the REST Rules or, in the Alternative, for a Limited Waiver ("Application").

3. In its Application, MEC is requesting that the Arizona Corporation Commission ("Commission" or "ACC") either (1) recognize energy produced at a single municipal waste-to-energy ("WTE") facility owned, operated or developed by Reclamation Power Group, LLC ("RPG") as a pilot program pursuant to Arizona Administrative Code ("A.A.C.") R14-2-1802(D)

1 or (2) grant a waiver, pursuant to A.A.C. R14-2-1816(A), to the extent necessary to recognize the
2 energy produced at this WTE facility as an “Eligible Renewable Energy Resource” as defined by
3 A.A.C. R14-2-1802. Under either scenario, MEC is seeking to have the facility qualify for
4 “Renewable Energy Credits” under A.A.C. R14-2-1803 and be eligible to satisfy the annual
5 renewable energy requirements established by A.A.C. R14-2-1804.

6 4. RPG is an Arizona limited liability company, formed in 2008, that is currently in
7 good standing with the State of Arizona. The facility developed by RPG would use steam
8 produced from the direct combustion of residential municipal solid waste (“MSW”) to run a
9 turbine and electric generator. The anticipated facility would receive approximately 500 tons per
10 day of MSW, 25 percent of which may be recycled. The City of Phoenix and surrounding areas
11 generate in excess of 10,000 tons of MSW per day. Although the proposed facility would provide
12 residents in MEC’s territory with power, the location of the planned facility would be in the
13 Phoenix Metropolitan area. However, an actual site for the facility has yet to be determined.

14 5. The net output of the planned facility would be 11 megawatts (“MW”). WTE
15 facilities provide baseload power. This facility could potentially supply MEC’s customers with
16 more than 86,000 megawatt-hours (“MWh”) of energy on an annual basis (assuming a 90 percent
17 capacity factor). RPG has indicated that the facility would support approximately 40 direct jobs
18 and a number of indirect jobs related to contract services, such as housekeeping, legal, and ash
19 disposal.

20 **Waste-to-Energy**

21 6. In the United States, there are currently 87 WTE facilities operating in 24 states,
22 generating approximately 2,500 MW, or about 0.3 percent of total national power generation.¹

23 *MSW as a Renewable Resource*

24 7. Treatment of MSW as a renewable resource varies at both the state and federal
25 level. Some state renewable portfolio standards include all or part of MSW-fueled generation as

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28 ¹ U.S. Environmental Protection Agency. Municipal Solid Waste, Electricity from Municipal Solid Waste.
<http://www.epa.gov/cleanenergy/energy-and-you/affect/municipal-sw.html>

1 renewable while others exclude MSW entirely.² At the federal level, the treatment of MSW as a
2 form of renewable energy varies across programs, laws and even within sections of the same body
3 of law.³

4 8. The Energy Information Administration (“EIA”) recently examined how it
5 classifies MSW as a renewable resource and found that it had sufficient information to separate the
6 energy produced from MSW into biogenic and non-biogenic portions.⁴ EIA included the
7 following items as biogenic material: newsprint, paper, containers and packaging, textiles, yard
8 trimmings, food wastes, wood, and leather. The EIA identified non-biogenic material to include
9 plastics and rubber.

10 9. In 2008, the most recent year for which data is available, biogenic MSW accounted
11 for almost 6 percent of the renewable energy consumed in the United States.⁵

12 10. MEC provided Staff with a breakdown, by category, of an MSW sample from the
13 City of Glendale Materials Recovery Facility as an example of the MSW that could be used as fuel
14 for the proposed RPG facility. Prior to recycling, the MSW, assumed to be typical of that in the
15 Phoenix Metropolitan area, is composed of about 82 percent biogenic material, 12 percent non-
16 biogenic material, and 6 percent non-combustible material, such as glass and metal. After taking
17

18 ² For example, Connecticut (Conn. Gen. Stat. §16-245a et seq), the District of Columbia (D.C. Code § 34-1431 et
19 seq), Maryland (Md. Public Utility Companies Code § 7-701 et seq.), Massachusetts (M.G.L. ch. 25A, § 11F),
20 New Jersey (N.J. Stat. § 48:3-49 et seq.), and Pennsylvania (73 P.S. § 1648.1 et seq.) allow energy from MSW to
21 be partially counted toward compliance with a renewable portfolio standard. Hawaii (HRS § 269-91 et seq.),
22 Iowa (Iowa Code § 476.41 et seq.), Maine (35-A M.R.S. § 3210), Michigan (MCL § 460.1021 et seq.), Minnesota
(Minn. Stat. § 216B.1691), Nevada (NRS 704.7801 et seq.), Utah (Utah Code 54-17-101 et seq.) allow for energy
from MSW to count completely toward RPS compliance. Delaware (26 Del. C. § 351 et seq.), Illinois (§ 20 ILCS
3855/1-75), Texas (Texas Utilities Code § 39.904), Vermont (30 V.S.A. § 8001 et seq.) and Washington (WAC
194-37) specifically prohibit the use of MSW for purposes of generating renewable energy.

23 ³ Energy Information Administration. Methodology for Allocating Municipal Solid Waste to Biogenic and Non-
24 Biogenic Energy. May 2007. “For example, the definition of renewable energy in Section 203 of the Energy
25 Policy Act of 2005 explicitly includes MSW-derived electricity as a “renewable energy” resource eligible to
satisfy the federal renewable energy purchase requirement established in that section. Yet, many other sections of
the same bill do not include MSW as an eligible renewable energy source for purposes of programs that aim to
develop, assess, or support renewable energy.”

http://www.eia.doe.gov/cneaf/solar.renewables/page/mswaste/msw_report.html

26 ⁴ Although it is not meant as a definitive source for the treatment of MSW, the EIA issued a “Methodology for
27 Allocating Municipal Solid Waste to Biogenic/Non-Biogenic Energy” detailing the methodology it used to
distinguish between biogenic and non-biogenic energy in MSW.

http://www.eia.doe.gov/cneaf/solar.renewables/page/mswaste/msw_report.html

28 ⁵ Energy Information Administration. Renewable Energy Annual, Table 1.1 U.S. Energy Consumption by Source.
Available at http://www.eia.doe.gov/cneaf/solar.renewables/page/rea_data/table1_1.xls

1 recycling rates into account, the biogenic material accounts for about 95 percent of the waste
2 stream, with non-biogenic and non-combustible materials accounting for only approximately 2
3 percent and 3 percent of the waste stream, respectively.

4 11. Although the biogenic material may count for approximately 95 percent of the
5 MSW stream after recycling, the biogenic material does not contribute 95 percent of the energy to
6 the system to produce electricity. The remaining components of the MSW burn at various heat
7 rates. Using heat rate factors from the EIA, the biogenic material contributes about 91 percent of
8 the energy to the process while non-biogenic materials contribute about 9 percent of the energy to
9 the process with the non-combustibles contributing nothing (glass and metal do not burn to
10 produce energy).

11 12. Until recently, calculation of energy from renewable content was accounted for by
12 gross estimation of combustion fuel sources, similar to the description of the MSW composition
13 discussed above. Recently, however, another method was developed out of the U.S. Department
14 of Agriculture's BioPreferred program. This program prefers manufacturers of products derived
15 from renewable resources.⁶

16 13. ASTM-D6866 is a standardized method of identifying the carbon-14 isotope
17 ("C14") and providing a value of renewable carbon content within any solid, liquid or gas.⁷ The
18 test methods are applicable to any product containing carbon-based components that can be
19 combusted in the presence of oxygen to produce carbon dioxide ("CO₂") gas.⁸ The overall
20 analytical method is also applicable to gaseous samples, including flue gases from electrical utility
21 boilers and waste incinerators.

22 14. Recycled CO₂, also known as carbon-neutral CO₂, is carbon dioxide which was
23 removed from the air through plant respiration, then returned to the air through combustion of
24 plant derivatives. Common fuels which produce recycled CO₂ include biomass, ethanol and
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26 ⁶ ASTM Standard D6866-10, 2010, "Standard Test Methods for Determining the Biobased Content of Solid,
Liquid, and Gaseous Samples Using Radiocarbon Analysis," www.astm.org.

27 ⁷ Institute of Clean Air Companies, Inside the APC Industry, Regulatory Implications of ASTM-D6866. September
2007, Volume 1 Issue 1. p. 4. <http://www.betalabservices.com/PDF/ICAC.pdf>

28 ⁸ ASTM International, ASTM D6866 - 10 Standard Test Methods for Determining the Biobased Content of Solid,
Liquid, and Gaseous Samples Using Radiocarbon Analysis. <http://www.astm.org/Standards/D6866.htm>

1 municipal solid waste. The carbon-14 isotope is present in all plant material and is absent in all
2 fossil fuels.⁹ By measuring the presence of C14 in the air and in emissions from combustion
3 activities directly, the ratio of recycled CO₂ to fossil fuel-based CO₂ can be determined. The basic
4 difference between renewable-based products and petroleum-based products is the presence of
5 modern or ancient origin of the carbon in those products. As such, radiocarbon dating is able to
6 distinguish between the two sources.

7 15. The balance method is also currently used to determine the biogenic portion of
8 mixed waste. The balance method uses existing data on the composition of materials and the
9 operating conditions of the WTE plant, and calculates the most probable result based on a
10 mathematical-statistical model. Comparisons between the C14 method and the balance method
11 conducted at three full-scale facilities in Switzerland show that both methods arrive at the same
12 result.¹⁰

13 *Environmental Impacts*

14 16. In general, the resultant emissions from most thermal power plants will range from
15 most dirty in the case of coal as fuel, to least dirty in the case of natural gas as fuel, with MSW as
16 fuel lying somewhere between the two. All waste-to-energy facilities must comply with the U.S.
17 Environmental Protection Agency's ("EPA") Maximum Achievable Control Technology
18 ("MACT") standards. While MSW may be cleaner than coal, it is not necessarily cleaner than
19 natural gas or other renewable resources, such as wind and solar.

20 17. For example, SO₂ emissions from a WTE facility are generally less than those from
21 coal-fired facilities, greater than those from natural gas facilities, and on par with those from
22 biomass and landfill gas-to-energy facilities. NO_x emissions from a WTE facility are generally

24 ⁹ When plants fix atmospheric CO₂ into organic material during photosynthesis they incorporate a quantity of C14
25 that approximately matches the level of this isotope in the atmosphere. After plants die or they are consumed by
26 other organisms, the C14 fraction of this organic material declines at a fixed exponential rate due to the
27 radioactive decay of C14.

26 ¹⁰ Wikipedia, Waste-to-energy. <http://en.wikipedia.org/wiki/Waste-to-energy> (citing Fellner, J., Cencic, O. and
27 Rechberger, H., *A New Method to Determine the Ratio of Electricity Production from Fossil and Biogenic
28 Sources in Waste-to-Energy Plants*. 2007. *Environmental Science & Technology*, 41(7): 2579-2586 and Mohn, J.,
Szidat, S., Fellner, J., Rechberger, H., Quartier, R., Buchmann, B. and Emmenegger, L., *Determination of
biogenic and fossil CO₂ emitted by waste incineration based on ¹⁴CO₂ and mass balances*. 2008. *Bioresource
Technology*, 99: 6471-6479).

1 less than those from coal-fired, landfill gas-to-energy, or biomass facilities but greater than those
2 from natural gas facilities. PM₁₀ emissions from a WTE facility are generally less than those from
3 coal-fired and landfill gas-to-energy facilities but greater than those from natural gas facilities.
4 CO₂ emissions from a WTE facility tend to be less than those from coal-fired and landfill gas-to-
5 energy facilities but greater than those from natural gas and biomass facilities.¹¹

6 18. As stated previously, carbon dioxide emissions from biogenic sources are
7 considered “recycled” or carbon-neutral because the sources of the emissions, prior to being used
8 as fuel, were absorbing CO₂ from the atmosphere.¹² In biomass facilities, all of the CO₂ emissions
9 are carbon-neutral because all of the fuel is renewable. In a WTE facility, where the fuel is a
10 mixture of biogenic and non-biogenic sources, there will be carbon-neutral CO₂ emissions from
11 the biogenic sources and fossil fuel based CO₂ emissions from the non-biogenic sources.

12 19. Although the fuel source for landfill gas-to-energy facilities is derived from the
13 breakdown of biogenic materials in the landfill, the methane leakage from landfills accounts for
14 significant emissions of CO₂ equivalent (“CO₂e”). Current estimates show that one ton of MSW
15 combusted rather than landfilled reduces greenhouse gas emissions by an average of one ton of
16 CO₂.¹³

17 *Water Impacts*

18 20. Power plants that burn MSW are normally smaller than fossil fuel power plants and
19 typically require a similar amount of water per unit of electricity generated.¹⁴ Water

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24 ¹¹ U.S. Environmental Protection Agency. Municipal Solid Waste, Electricity from Municipal Solid Waste.
<http://www.epa.gov/cleanenergy/energy-and-you/affect/municipal-sw.html>. EIA form 923 generation information
25 for 2010 and EPA NEI data for 2008 eGRIDweb Version 1.0 Plant File (Year 2005 Data) for Arizona Facilities
<http://www.srpnet.com/environment/sustainability/RenewableTechnologies.aspx>

26 ¹² Institute of Clean Air Companies. Inside the APC Industry, Regulatory Implications of ASTM-D6866. September
2007, Volume 1 Issue 1. p. 4. <http://www.betalabservices.com/PDF/ICAC.pdf>

27 ¹³ P.O. Kaplan, Joseph Decarolis and Susan Thornloe. Is it Better to Burn or Bury Waste for Clean Electricity
28 Generation? *Environ. Sci. Technol.* 2009, Volume 43, No. 6, pp. 1711–1717. See also Waste-to-Energy Research
and Technology Council, Answers to FAQ. <http://www.seas.columbia.edu/earth/wtert/faq.html>

¹⁴ U.S. Environmental Protection Agency. Municipal Solid Waste, Electricity from Municipal Solid Waste.
<http://www.epa.gov/cleanenergy/energy-and-you/affect/municipal-sw.html>

1 consumption by power plants varies by plant type and cooling technology with coal, biomass, and
2 natural gas facilities consuming between approximately 100 and 500 gallons per MWh.¹⁵

3 *Land Impacts*

4 21. WTE facilities, much like other power plants, require land for equipment and fuel
5 storage.

6 22. The non-hazardous ash residue from the burning of MSW is typically deposited in
7 landfills.¹⁶ Regular testing ensures that residual ash is non-hazardous before being landfilled.
8 About ten percent of the total ash formed in the combustion process is used for beneficial use such
9 as daily cover in landfills and road construction.¹⁷ Less MSW being sent to the landfill leads to
10 reduced land impacts associated with landfill sites – WTE plants reduce the space required for
11 landfilling by about 90 percent (one square foot per ton of MSW). WTE plants also do not have
12 the aqueous emissions, or leachate, that may be experienced in landfills, either now or in the
13 distant future.¹⁸ Moreover, burning waste at extremely high temperatures also destroys chemical
14 compounds and disease-causing bacteria.¹⁹

15 *Improved Recycling Rates*

16 23. MSW combustion processes using refuse-derived fuel can also be equipped to
17 recover recyclables, thereby increasing recycling rates, before shredding the combustible fraction

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21 ¹⁵ Water & Sustainability (Volume 3): U.S. Water Consumption for Power Production—The Next Half Century,
EPRI, Palo Alto, CA: 2002. 1006786.

22 ¹⁶ U.S. Environmental Protection Agency. Municipal Solid Waste, Electricity from Municipal Solid Waste.
<http://www.epa.gov/cleanenergy/energy-and-you/affect/municipal-sw.html>

23 ¹⁷ U.S. Environmental Protection Agency. Municipal Solid Waste, Combustion.
<http://www.epa.gov/epawaste/nonhaz/municipal/combustion.htm>

24 ¹⁸ Waste-to-Energy Research and Technology Council, Answers to FAQ.
<http://www.seas.columbia.edu/earth/wtert/faq.html>; Cornell Waste Management Institute, Trash Goes to School.
25 “Leachate is produced when water filters downward through a landfill, picking up dissolved materials from the
decomposing wastes. Depending on characteristics of the landfill and the wastes it contains, the leachate may be
26 relatively harmless or extremely toxic. Generally leachate has a high biochemical oxygen demand (BOD) and
high concentrations of organic carbon, nitrogen, chloride, iron, manganese, and phenols. Many other chemicals
27 may be present, including pesticides, solvents, and heavy metals.” Modern sanitary landfills, however, are
constructed to prevent leachate contamination of groundwater or surface waters.
<http://cwmi.css.cornell.edu/TrashGoesToSchool/Landfill.html>

28 ¹⁹ U.S. Environmental Protection Agency. Municipal Solid Waste, Combustion.
<http://www.epa.gov/epawaste/nonhaz/municipal/combustion.htm>

1 to uniform size for incineration.²⁰ Additionally, WTE plants recover more than 700,000 tons of
2 ferrous metals for recycling annually. Recycling metals saves energy and CO₂ emissions that
3 would have been emitted if the materials were mined and new metals, such as steel, were
4 manufactured.²¹

5 **Renewable Energy Standard and Tariff**

6 24. The Renewable Energy Standard and Tariff (“REST”) Rules are codified at Title
7 14, Chapter 2, Article 18 of the Arizona Administrative Code.²² The REST Rules detail the
8 Annual Renewable Energy Requirement²³ that each Affected Utility²⁴ must satisfy and also
9 prescribes the Eligible Renewable Energy Resources²⁵ that may be used to meet the Annual
10 Renewable Energy Requirement.

11 25. MEC, as a public service corporation serving retail electric load in Arizona, is an
12 Affected Utility under the REST Rules and, as such, must comply with the Annual Renewable
13 Energy Requirement. MEC wishes to use the energy from the proposed WTE facility to meet part
14 of that Requirement. Municipal solid waste-to-energy facilities, however, are not an Eligible
15 Renewable Energy Resource under A.A.C. R14-2-1802(A).

16 *Pilot Program*

17 26. MEC requests that the Commission recognize energy produced at the proposed
18 WTE facility as a pilot program pursuant to A.A.C. R14-2-1802(D) which states:

19 The Commission may adopt pilot programs in which additional technologies are
20 established as Eligible Renewable Energy Resources. Any such additional
21 technologies shall be Renewable Energy Resources that produce electricity,
22 replace electricity generated by Conventional Energy Resources, or replace the
23 use of fossil fuels with Renewable Energy Resources. Energy conservation
24 products, energy management products, energy efficiency products, or products
25 that use non-renewable fuels shall not be eligible for these pilot programs.

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25 ²⁰ U.S. Environmental Protection Agency. Municipal Solid Waste, Combustion.
<http://www.epa.gov/epawaste/nonhaz/municipal/combustion.htm>

26 ²¹ Ted Michaels. Waste Not, Want Not: The Facts Behind Waste-to-Energy. April 2009.

27 ²² See A.A.C. R14-2-1801, *et seq.*

28 ²³ See A.A.C. R14-2-1804.

²⁴ See A.A.C. R14-2-1801(A): (“‘Affected Utility’ means a public service corporation serving retail electric load in Arizona, but excluding any Utility Distribution Company with more than half of its customers located outside of Arizona.”).

²⁵ See A.A.C. R14-2-1802(A).

1 27. Staff does not recommend that the Commission adopt the proposed RPG facility as
2 a pilot program. Instead, Staff believes that good cause exists for the Commission to grant a
3 waiver of the REST Rules to recognize energy produced at the RPG WTE facility as an Eligible
4 Renewable Energy Resource because Staff believes that the potential benefits of the RPG WTE
5 facility outweigh the potential consequences, especially when compared to the alternative of
6 landfilling MSW. WTE plants mitigate the risk of leachate and water contamination that may be
7 experienced by landfilling MSW.

8 28. However, the Commission disagrees with Staff that a waiver of the REST Rules is
9 necessary or appropriate in this case. Burning the biogenic material in MSW to generate electricity
10 is essentially the same as burning biomass to generate electricity. Biomass is explicitly recognized
11 as an Eligible Renewable Energy Resource in the REST Rules. Because the vast majority (82-95
12 percent) of the waste stream in the Phoenix Metropolitan area is biogenic, we believe the RPG
13 WTE facility should be approved on a pilot program basis. The biogenic waste stream is
14 renewable.

15 29. Although we disagree with Staff that a waiver of the REST Rules is necessary to
16 approve the application in this case, we recognize and acknowledge that Staff's analysis, as
17 contained in its Staff Report and Recommended Order that was docketed on May 10, 2011,
18 provides an independent and alternative basis upon which to approve this application.

19 30. We recommend that 1 Renewable Energy Credit ("REC") be created for each
20 kilowatt-hour ("kWh") of energy generated by the RPG WTE facility from biogenic material.
21 Based on the local data MEC has provided to Staff representing that 91 percent of the energy
22 would come from biogenic sources, we believe that 90 percent of the kWhs generated by the
23 proposed RPG WTE facility be deemed biogenic and produced by an Eligible Renewable Energy
24 Resource. In other words, if this facility produced a **total** of 1,000,000 kWh in a year, it will be
25 considered to have produced 900,000 RECs.

26 31. Staff recommends that MEC provide the Commission with accurate and timely
27 information that will allow Staff to confirm the percent of energy that comes from biogenic
28 material in the RPG WTE facility. We agree and will require MEC to file such reports with

1 Commission Staff on a semi-annual basis. After reviewing these reports, if Commission Staff
2 believes that less than 85 percent of the energy produced at the RPG WTE facility is from biogenic
3 sources, Staff shall file a recommendation with the Commission to reduce the allowable
4 percentage of RECs from the RPG WTE facility. Conversely, if MEC believes that the amount of
5 energy produced from biogenic sources at the RPG WTE facility is greater than 95 percent, it may
6 apply to the Commission to increase the allowable percentage of RECs from the facility.

7 32. Staff recommends that RPG monitor the waste stream entering the WTE facility to
8 determine the categorical composition breakdown of MSW samples, similar to that previously
9 provided to Staff. We Agree. MEC shall provide Commission Staff with such reports on a semi-
10 annual basis until further order of the Commission. The reports should include the following
11 information: composition by MSW categories, measured weight, percent by weight, and recycling
12 rates.

13 33. The RPG WTE facility shall comply with all applicable air quality standards. MEC
14 shall file all air quality monitoring results required by Maricopa County and/or the Arizona
15 Department of Environmental Quality with the Commission Staff as part of the above described
16 semi-annual reports.

17 34. The Commission's decision in this matter does not address the prudence of any
18 purchased power agreement that MEC may enter into with RPG.

19 CONCLUSIONS OF LAW

20 1. Mohave Electric Cooperative, Inc. is an Arizona public service corporation within
21 the meaning of Article XV, Section 2, of the Arizona Constitution.

22 2. The Commission has jurisdiction over MEC and over the subject matter of the
23 Application.

24 3. The Commission, having reviewed the application and Staff's Memorandum dated
25 May 10, 2011, concludes that it is in the public interest to approve MEC's Application, as
26 discussed herein.

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ORDER

IT IS THEREFORE ORDERED that Mohave Electric Cooperative, Inc.'s application to recognize energy produced at the RPG WTE as a pilot program pursuant to A.A.C. R14-2-1802(D) is approved, as discussed herein.

IT IS FURTHER ORDERED that, at this time, 90 percent of the total kWhs of energy derived from the RPG WTE facility be considered as being produced by an Eligible Renewable Energy Resource.


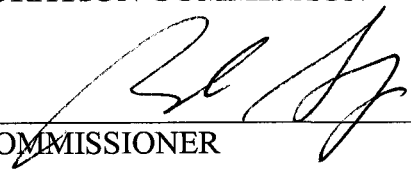
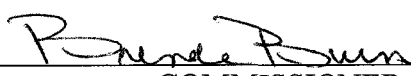
IT IS FURTHER ORDERED that Mohave Electric Cooperative, Inc. file the reports discussed in Findings of Fact 30, 31, and 32 relating to, respectively, the percent of energy that comes from biogenic material in the RPG WTE facility, the MSW categorical composition breakdowns, and the air quality monitoring results. The semi-annual reports shall include data from January 1st through June 30th and from July 1st through December 31st of each year and the reports shall be docketed 45 days after the end of June and December, respectively.

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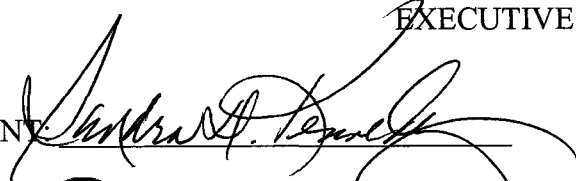
IT IS FURTHER ORDERED that this Order shall become effective immediately.

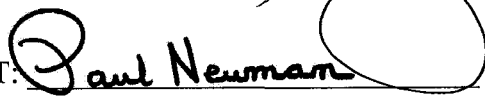
BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

	
CHAIRMAN	COMMISSIONER
COMMISSIONER	COMMISSIONER
	
	COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 25th day of July, 2011.


 ERNEST G. JOHNSON
 EXECUTIVE DIRECTOR

DISSENT: 

DISSENT: 

SMO:LAF:SMH/sms

1 SERVICE LIST FOR: Mohave Electric Cooperative, Inc.
2 DOCKET NO. E-01750A-10-0453

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July 15, 2011

Arizona Corporation Commission
Docket Control
Phoenix, Arizona Corporation Commission

Re: Dissent
Mohave Electric Cooperative, Inc.
E-0175A-10-0453

I am submitting this letter explaining my No vote on Mohave Electric Cooperative, Inc.'s application for a waiver of the Commission's Renewable Energy Standards and Tariff (REST) rules. MEC requested approval of a Waste-to-Energy Facility as a Pilot Program or, in the alternative, for a limited waiver.

Several issues concerned me in this application: and judging from the numerous telephone calls and emails to my office, so many ratepayers in the Company's service territory expressed the same.

From my understanding of the information and testimony provided in this case, the amount of water that this project will use in its operation is confidential. In my opinion that put us as regulators and the public at a disadvantage. We may never know how this type of technology utilizes a precious resource.

Another issue of concern is many municipalities have done an admirable job with their residential and commercial recycling programs. It does worry me that many will see this program as a viable renewable energy project and no longer see the need to reuse and or recycle by approving this program. I do not want to give the public the impression that it is okay to replace robust municipal solid waste recycling programs with incineration of such waste.

The testimony and evidence clearly show that the Commission during the REST development and rule making process rejected defining or including waste-to-energy as a renewable energy source. It was my understanding that the REST rules were fully vetted and debated.

While the witness on behalf of MEC kept referring to this project as using renewable energy resource, there has been no determination or revision to the REST rules in this record stating that waste-to-energy is a renewable energy resource.

Decision No. **72500**

Mohave Electric Cooperative, Inc.
E-0175A-10-0453

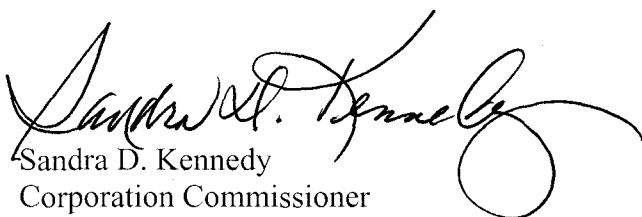
I am fully aware that our REST rules allow for waivers. I also am aware that the rules require good cause for granting a waiver. In my review of the information provided in this case, I did not find where good cause for a waiver was established or even cited in the application. As I read and re-read Staff's report and listened to the testimony, I did not see an articulated justification that the good cause standard had been met. It has been my understanding that electric cooperatives do not need to meet the same benchmarks for renewable energy as the investor owned electric utilities to comply with our standards. My concern on how we handled this application may lead us down a slippery slope that other regulated utilities may use as justification for allowing non-renewable forms of energy to count toward the REST standard.

As uncomfortable as I am regarding the Staff recommendation that 75 percent of the total kilowatt-hours of energy derived from the waste-to-energy facility be counted as renewable energy, the amendment that increased the 75 percent to 90 percent is extremely bothersome.

Arizonans have clearly stated their preference and desire for renewable energy. In fact, ratepayers tell me repeatedly that they want more. They never tell me they want the burning of municipal waste, but more solar and wind.

Research and evidence in this case highlighted that municipal solid waste produces harmful emissions that pose a risk to the public health. We also know that incinerators for waste-to-energy are not carbon neutral.

Finally, it is rare for me to not support or adopt a recommendation forwarded by our Staff. However, I find that I have to oppose the final version that was approved and therefore voted against this measure.


Sandra D. Kennedy
Corporation Commissioner