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CORP COMMISSION  
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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission  
DOCKETED

MAY 11 2012

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

IN THE MATTER OF THE APPLICATION )  
OF ARIZONA PUBLIC SERVICE COMPANY )  
FOR A HEARING TO DETERMINE THE FAIR )  
VALUE OF THE UTILITY PROPERTY OF THE )  
COMPANY FOR RATEMAKING PURPOSES, )  
TO FIX A JUST AND REASONABLE RATE )  
OF RETURN THEREON, TO APPROVE RATE )  
SCHEDULES DESIGNED TO DEVELOP SUCH )  
RETURN. )

DOCKET NO. E-01345A-11-0224

**SOUTHWEST ENERGY  
EFFICIENCY PROJECT'S  
EXCEPTIONS TO  
RECOMMENDED OPINION  
AND ORDER**

The Southwest Energy Efficiency Project (SWEET) submits the following exceptions to the Recommended Opinion and Order (ROO). While SWEET has concerns with several issues in the ROO, these exceptions focus on three key issues.

**1. Full revenue decoupling is a superior approach for addressing utility financial disincentives to energy efficiency compared to the LFCR mechanism. The Commission should substitute full revenue decoupling in place of the LFCR mechanism proposed in the Settlement Agreement because full revenue decoupling more completely and effectively reduces utility company disincentives to increased energy efficiency.**

Full revenue decoupling, a mechanism the Commission has adopted and preferred in prior proceedings, is a superior approach for the treatment of utility financial disincentives to

1 energy efficiency compared to the Lost Fixed Cost Recovery (LFCR) mechanism proposed in  
2 the Settlement Agreement. Full revenue decoupling is important not only for full, enthusiastic  
3 utility support of energy efficiency programs but also for activities that reduce energy bills  
4 including those not directly linked to the Company's portfolio of energy efficiency programs,  
5 such as utility support for building energy codes and appliance standards, broad energy education  
6 and marketing, state and local government energy conservation efforts, and federal energy  
7 policies. These other policies and activities can result in energy savings at lower costs than  
8 ratepayer-funded programs and therefore are crucial in helping to keep total ratepayer costs low.

9 Full revenue decoupling allows for bill adjustments in both a positive and negative  
10 direction, and therefore decoupling could result in either a credit (e.g., as the economy recovers)  
11 or a charge on the customer bill. In contrast, the proposed LFCR mechanism represents an  
12 automatic rate increase. Further, the LFCR mechanism does nothing to reduce APS' financial  
13 incentive to sell more electricity and encourage customers to use more electricity.

14 SWEEP recommends that the Commission substitute full revenue decoupling in place of  
15 the LFCR mechanism proposed in the Settlement Agreement because full revenue decoupling  
16 more completely and effectively reduces utility company disincentives for the support of  
17 activities that eliminate energy waste and increase energy efficiency, while the LFCR does not.

18 **2. The adoption of the proposed Settlement Agreement, as recommended in the ROO,  
19 will limit the Commission from fully exploring the policy options for addressing  
20 utility financial disincentives to energy efficiency, including limiting the  
21 Commission's consideration of full revenue decoupling and other policy options.**

22 The long four-year rate case stay-out provision will limit the Commission's ability to  
23 direct energy policy, which the Commissioners expressly communicated they were concerned  
24 about in their comments regarding settlements. The Settlement Agreement does not address, in a  
25 positive and responsive manner, the concerns raised by Commissioners during the Special Open  
Meeting on December 16, 2011. This is particularly the situation regarding the Commission's  
ability to further consider approaches for addressing utility financial disincentives to energy

1 efficiency, which is essential to better align the utility's interests with the interests of its  
2 customers.

3 Caution should be exercised when enacting a rate case stay-out provision, especially one  
4 as long as four years. The Settlement Agreement adopted in Tucson Electric Power Company's  
5 (TEP) 2008 rate case included a stay-out provision that prohibits the Company from filing a new  
6 general rate case application until mid-2012. As the Commission is fully aware, this stay-out  
7 provision has constrained Commission options and potential actions related to the achievement  
8 of the Electric Energy Efficiency Standard (adopted in 2010) and the Commission's review of  
9 the TEP EE Implementation Plan, and has resulted in TEP customers not receiving the full value  
10 of energy efficiency.

11 If the Commission decides to adopt the Settlement Agreement, the Commission should  
12 closely monitor the effects of the provisions of the Settlement Agreement and stand ready to  
13 pursue other and more effective alternatives under its own initiative. The Settlement Agreement  
14 should not stand in the way of such efforts to develop and implement more effective approaches.

15 **3. The energy efficiency performance incentive for APS should be addressed in the  
16 Energy Efficiency Implementation Plan process in a timely manner rather than  
17 being further delayed in this rate case proceeding.**

18 Performance incentives are an important policy instrument that the Commission should  
19 exercise to influence and direct energy efficiency policies during the energy efficiency  
20 implementation plan process. If adopted, the Settlement Agreement would slightly modify the  
21 Company's current performance incentive by removing and changing certain performance tiers.  
22 It would also initiate a stakeholder process for the development of a new performance incentive  
23 by December 31, 2012, for Commission consideration and possible implementation at a later  
24 date.<sup>1</sup> Simply put, this is too much delay in addressing concerns raised by Commissioners from  
25 the bench and important improvements in the performance incentive mechanism.

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<sup>1</sup> See Sections 9.14b and 9.14d of the proposed Settlement Agreement.

1 SWEEP believes it is crucial for the Commission to be able to oversee and modify  
2 performance incentive design during the energy efficiency implementation plan process, when  
3 new energy efficiency programs and initiatives are proposed, reviewed, and approved by the  
4 Commission, and when energy efficiency policy is implemented. Therefore the appropriate  
5 forum for Commission review and consideration is the EE Implementation Plan process, as  
6 allowed in the Energy Efficiency Rules,<sup>2</sup> and not in a rate case proceeding. Performance  
7 incentives are a very important and influential tool in the Commission's toolbox to guide the  
8 implementation of energy efficiency policy, and therefore the appropriate forum is the EE  
9 Implementation Plan proceedings.

10 Specifically, SWEEP recommends that the new performance incentive should be  
11 developed by mid-2012, filed by APS as part of its 2013 Demand Side Management (DSM)  
12 Implementation Plan (or in a supplemental filing in that proceeding), and considered by the  
13 Commission as part of its review of the 2013 DSM Implementation Plan.

14 There is no reason for APS, Staff, and stakeholders to wait until December 2012 to  
15 complete the development of a new performance incentive, for Commission review, that will  
16 better incent the achievement of cost-effective energy savings. And there is no reason for the  
17 Commission to delay in addressing the concerns that individual Commissioners and others have  
18 expressed about the current performance incentive mechanism.

19 In response to SWEEP's testimony in the proceeding, the ROO cited the reply statement  
20 of the Joint Signatories: "Staff has clearly stated that given its workload priorities and staffing  
21 level, it is unable to develop and process a new Performance Incentive before the date set in the  
22 Settlement Agreement." ROO, page 33. SWEEP is quite aware of Staff's workload and staffing  
23 constraints related to energy efficiency proceedings. In consideration of such constraints,  
24 SWEEP proposed a process that would be led by APS and would include Staff review and input

25 <sup>2</sup> The Electric Energy Efficiency Rules state that, "In the implementation plans required by R14-2-2405, an affected utility may propose for Commission review a performance incentive to assist in achieving the energy efficiency standard set forth in R14-2-2404. The Commission may also consider performance incentives in a general rate case" (R14-2-2411).

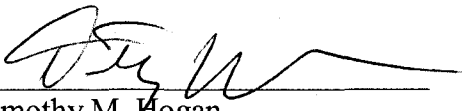
1 from stakeholders. This process could be completed sooner than December 2012, while  
2 affording Staff and stakeholders a full opportunity to contribute to an improved performance  
3 incentive mechanism in a timely manner and in a manner that is more responsive to concerns  
4 raised by Commissioners from the bench.

5 SWEEP recommends that APS initiate a process now to work with Staff and other  
6 stakeholders to develop a new performance incentive for Commission consideration as part of  
7 the 2013 DSM Implementation Plan process. APS should file the proposed improved  
8 performance incentive mechanism as a supplemental filing in the 2013 Implementation Plan  
9 proceeding.

10 SWEEP appreciates that the ROO highlighted SWEEP's recommendations on objectives  
11 and design criteria for an energy efficiency performance incentive that would establish a clear  
12 connection between the performance incentive level and the achievement of cost-effective  
13 energy savings to benefit customers.

14 DATED this 11<sup>th</sup> day of May, 2012.

15 ARIZONA CENTER FOR LAW IN  
16 THE PUBLIC INTEREST

17 By   
18 Timothy M. Hogan  
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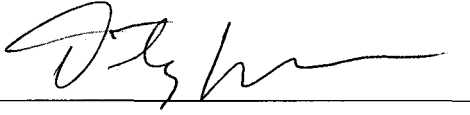
23 ORIGINAL and 13 COPIES of  
24 the foregoing filed this 11<sup>th</sup> day  
25 of May, 2012, with:

Docketing Supervisor  
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Arizona Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007

COPIES of the foregoing

1 Electronically mailed this  
11<sup>th</sup> day of May, 2012 to:

2 All Parties of Record

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