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OPEN MEETING



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MEMORANDUM

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Arizona Corporation Commission

TO: THE COMMISSION

FROM: Utilities Division

DATE: January 23, 2013

AZ CORP COMMISSION JAN 22 2013  
DOCKET CONTROL

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RE: ARIZONA PUBLIC SERVICE COMPANY – APPLICATION FOR APPROVAL OF TWO QUALIFYING FACILITY AGREEMENTS (DOCKET NO. E-01345A-12-0482)

On November 30, 2012, Arizona Public Service Company (“APS”) filed an application with the Arizona Corporation Commission (“Commission”) for approval of two Qualifying Facility (“QF”) agreements. On November 15, 2012, APS entered two agreements for Electric Service to a Qualifying Facility and for Purchase of Energy from a Qualifying Facility with CSE Operating I, LLC (“Buckeye Agreement” or “Buckeye Campus) and Solar and Renewables Management, LLC (“Southern Agreement” or “Southern Generation”). On December 6, 2012, APS filed a letter waiving the 30-day time clock.

CSE Operating I, LLC and Solar and Renewables Management, LLC are special purpose entities formed to develop, construct and own the Buckeye generating facility. The parent company for both special purpose entities is Environmental Capital Management, LLC, an Arizona limited liability company in good standing with the Commission as of November 21, 2012 (File Number L-1246048-2).

Both QFs are located in APS service territory just outside the Town of Buckeye, and each facility has a capacity of 600 kW of electric generation using biogas.

- Biogas typically refers to a gas produced by the breakdown of organic matter in the absence of oxygen. Organic waste such as dead plant and animal material, animal feces, and kitchen waste can be converted into a gaseous fuel called biogas. Biogas originates from biogenic material and is a type of bio fuel. The Buckeye Campus and Southern Generation facilities will use manure from the dairy farms on which they are both located. Both facilities have filed a self-certification of QF status pursuant to Federal Energy Regulatory Commission’s (“FERC”) rules and regulations (I 8 CFR \$292.207), and FERC has accepted both of the filings.

In 1978, the United States Congress enacted the Public Utility Regulatory Policies Act (“PURPA”) to encourage the conservation of electric energy and natural gas as part of a broad response to the global energy crisis of the late 1970’s. Section 210 of PURPA accomplishes this goal by promoting the development of alternative energy resources through the establishment of a class of generating facilities, known as Qualifying Facilities or “QFs”, which receive by law special rate and regulatory treatment. Under PURPA, FERC was authorized to develop rules

requiring electric utilities to both purchase electricity from and sell electricity to QFs. FERC subsequently issued regulations requiring utilities to purchase energy and capacity from QFs at rates equal to the utility's "avoided cost," which is generically defined as the incremental energy and capacity cost the utility would otherwise incur if not for the energy purchased from the QF.

PURPA required state regulatory authorities to implement FERC's rules for the encouragement of cogeneration and small power production. On July 27, 1981 (Decision No. 52345), the Commission adopted a Cogeneration and Small Power Production Policy. One provision of the Policy is that all contracts for the sale and/or purchase of energy between utilities and QFs over 100 kW shall be submitted to the Commission for review and approval. No specific rate must be filed prior to the execution of the contract, but the rates would generally be based on the utility's avoided cost.

On November 15, 2012, APS executed both the Buckeye Agreement and the Southern Agreement for the sale and purchase of electric energy from QFs with CSE Operating I, LLC and Solar and Renewables Management, LLC, respectively. The Agreements are virtually identical and provide APS with the full output of both facilities for successive one-year terms that will automatically renew each year, unless there is a sixty (60) day termination notice by either party.

Pricing for purchases under the Agreements are derived from the Company's time-of-use avoided costs as approved by the Commission and set forth in APS Rate Schedule EPR-2. Energy will be supplied to APS on a non-firm basis. As the QFs will not require standby, supplemental, or maintenance power, and are not large enough to qualify for Rate Schedule E-36 (Station Use), the facilities will be served under one of the E-32 family of rate schedules.

Staff recommends approval of the agreement. The agreement would give APS another means to help meet system demand during times of supply shortages.

In addition, Staff recommends that the Commission specify in its Order that approval of the agreement at this time does not guarantee any future ratemaking treatment of the agreement with CSE Operating I, LLC and Solar and Renewables Management, LLC.



Steven M. Olea  
Director  
Utilities Division

SMO:PML:sms\MAS

ORIGINATOR: Patrick M. Lowe

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BEFORE THE ARIZONA CORPORATION COMMISSION

- BOB STUMP  
Chairman
- GARY PIERCE  
Commissioner
- BRENDA BURNS  
Commissioner
- BOB BURNS  
Commissioner
- SUSAN BITTER SMITH  
Commissioner

IN THE MATTER OF THE APPLICATION )	DOCKET NO. E-01345A-12-0482
OF ARIZONA PUBLIC SERVICE )	DECISION NO. _____
COMPANY FOR APPROVAL OF TWO )	
QUALIFYING FACILITY AGREEMENTS )	<u>ORDER</u>
(DOCKET NO. E-01345A-12-0482) )	
)	
)	
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Open Meeting  
February 12 and 13, 2013  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

A. Introduction

1. Arizona Public Service Company (“APS” or “Company”) is certificated to provide electric service as a public service corporation in the state of Arizona. On November 30, 2012 APS filed an application for approval of two Qualifying Facility (“QF”) agreements pursuant to Arizona Corporation Commission (“Commission” or “ACC”) Decision No. 52345 (July 27, 1981). The Staff recommends approval of the two QF agreements which are the subject of APS’s application.

B. Discussion

2. On November 15, 2012, APS entered into two agreements for Electric Service to a Qualifying Facility and for Purchase of Energy from a Qualifying Facility with CSE Operating I, LLC (“Buckeye Agreement” or “Buckeye Campus) and Solar and Renewables Management, LLC

1 (“Southern Agreement” or “Southern Generation”). The Company is required to obtain  
2 Commission approval of the agreements pursuant to ACC Decision No. 52345 (July 27, 1981) and  
3 the Commission’s Cogeneration and Small Power Production Policy Statement. On December 6,  
4 2012, APS filed a letter waiving the 30-day time clock under which the agreements would take  
5 effect by operation of law unless acted upon by the Commission.

6 3. CSE Operating I, LLC and Solar and Renewables Management, LLC are special  
7 purpose entities formed to develop, construct and own the Buckeye generating facility. The parent  
8 company for both special purpose entities is Environmental Capital Management, LLC, an Arizona  
9 limited liability company in good standing with the Commission as of November 21, 2012 (File  
10 Number L-1246048-2).

11 4. Both QFs are located in APS service territory just outside the Town of Buckeye,  
12 and each facility has a capacity of 600 kW of electric generation using biogas.

13 5. Biogas typically refers to a gas produced by the breakdown of organic matter in the  
14 absence of oxygen. Organic waste such as dead plant and animal material, animal feces, and  
15 kitchen waste can be converted into a gaseous fuel called biogas. Biogas originates from biogenic  
16 material and is a type of biofuel. The Buckeye Campus and Southern Generation facilities will use  
17 manure from the dairy farms on which they are both located. Both facilities have filed a self-  
18 certification of QF status pursuant to Federal Electric Regulatory Commission’s (“FERC”) rules  
19 and regulations (18 CFR §292.207), and FERC has accepted both of the filings.

20 6. In 1978, the United States Congress enacted the Public Utility Regulatory Policies  
21 Act (“PURPA”) to encourage the conservation of electric energy and natural gas as part of a broad  
22 response to the global energy crisis of the late 1970’s. Section 210 of PURPA accomplishes this  
23 goal by promoting the development of alternative energy resources through the establishment of a  
24 class of generating facilities, known as Qualifying Facilities or “QFs”, which receive by law  
25 special rate and regulatory treatment. Under PURPA, FERC was authorized to develop rules  
26 requiring electric utilities to both purchase electricity from and sell electricity to QFs. FERC  
27 subsequently issued regulations requiring utilities to purchase energy and capacity from QFs at  
28 rates equal to the utility’s “avoided cost,” which is generically defined as the incremental energy

1 and capacity cost the utility would otherwise incur if not for the energy purchased from the QF.<sup>1</sup>

2 7. PURPA required state regulatory authorities to implement FERC's rules for the  
3 encouragement of cogeneration and small power production. On July 27, 1981 (Decision No.  
4 52345), the Commission adopted a Cogeneration and Small Power Production Policy. One  
5 provision of the Policy is that all contracts for the sale and/or purchase of energy between utilities  
6 and QFs over 100 kW shall be submitted to the Commission for review and approval. No specific  
7 rate must be filed prior to the execution of the contract, but the rates would generally be based on  
8 the utility's avoided cost.

9 8. On November 15, 2012, APS executed both the Buckeye Agreement and the  
10 Southern Agreement for the sale and purchase of electric energy from QFs with CSE Operating I,  
11 LLC and Solar and Renewables Management, LLC, respectively. The Agreements are virtually  
12 identical and provide APS with the full output of both facilities for successive one-year terms that  
13 will automatically renew each year, unless there is a sixty (60) day termination notice by either  
14 party.

15 9. Pricing for purchases under the Agreements are derived from the Company's time-  
16 of-use avoided costs as approved by the Commission and set forth in APS Rate Schedule EPR-2.  
17 Energy will be supplied to APS on a non-firm basis. PURPA also requires utilities to provide  
18 electric energy to QFs at rates which are just and reasonable, in the public interest and which do  
19 not discriminate against cogenerators and small power producers. APS states that the energy  
20 provided to the QFs will be priced at the applicable Commission approved APS rate for similarly-  
21 situated retail customers. APS also states that as the QFs will not require standby, supplemental, or  
22 maintenance power, and are not large enough to qualify for Rate Schedule E-36 (Station Use), the  
23 facilities will be served under one of the E-32 family of rate schedules.

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25  
26 1 The Energy Policy Act of 2005 ("2005 EAct") modified Section 210 of PURPA by eliminating the utility's  
27 obligation to purchase QF power if the utility demonstrates that a QF can sell its power in a competitive wholesale  
28 market for energy and capacity, FERC adopted regulations which specify that where a FERC-approved ISO or RTO  
exists there is a rebuttable presumption that the QF has access to competitive wholesale markets. FERC's regulations  
also created a rebuttable presumption that a QF with a generating capacity at or less than 20 MW does not have  
nondiscriminatory access to a competitive market, and utilities must therefore continue to purchase power from the  
QF.

1 C. Staff Recommendation

2 10. Staff has recommended approval of both agreements. The agreements would give  
3 APS another means to help meet system demand during times of supply shortages.

4 11. Staff has further recommended that the Commission specify in its Order that  
5 approval of the agreements at this time does not guarantee any future ratemaking treatment of the  
6 agreements with CSE Operating I, LLC and Solar and Renewables Management, LLC.

7 CONCLUSIONS OF LAW

8 1. Arizona Public Service is an Arizona public service corporation within the meaning  
9 of Article XV, Section 2, of the Arizona Constitution.

10 2. The Commission has jurisdiction over Arizona Public Service and over the subject  
11 matter of the application.

12 3. The Commission, having reviewed the application and Staff's memorandum dated  
13 January 23, 2013, concludes that it is in the public interest to approve the two Qualifying Facility  
14 agreements.

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ORDER

IT IS THEREFORE ORDERED that both Qualifying Facility agreements, between Arizona Public Service Company and CSE Operating I, LLC; and Arizona Public Service Company and Solar and Renewables Management, LLC, dated November 15, 2012, are hereby approved.

IT IS FURTHER ORDERED that the Commission's approval of these agreements at this time does not guarantee any future ratemaking treatment of the two agreements.

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

**BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, 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 \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
JODI JERICH  
EXECUTIVE DIRECTOR

DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

SMO:PML:sms\MAS

1 SERVICE LIST FOR: Arizona Public Service  
DOCKET NO. E-01345A-12-0482

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