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BEFORE THE ARIZONA CORPORATION COMMISSION

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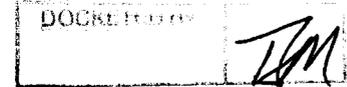
COMMISSIONERS

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

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FEB 26 2013

AZ CORP COMMISSION
DOCKET CONTROL



IN THE MATTER OF ARIZONA PUBLIC SERVICE COMPANY REQUEST FOR APPROVAL OF UPDATED GREEN POWER RATE SCHEDULE GPS-1, GPS-2, AND GPS-3.

DOCKET NO. E-01345A-10-0394

IN THE MATTER OF THE APPLICATION OF ARIZONA PUBLIC SERVICE COMPANY FOR APPROVAL OF ITS 2013 RENEWABLE ENERGY STANDARD IMPLEMENTATION FOR RESET OF RENEWABLE ENERGY ADJUSTOR.

DOCKET NO. E-01345A-12-0290

IN THE MATTER OF THE APPLICATION OF TUCSON ELECTRIC POWER COMPANY FOR APPROVAL OF ITS 2013 RENEWABLE ENERGY STANDARD IMPLEMENTATION PLAN AND DISTRIBUTED ENERGY ADMINISTRATIVE PLAN AND REQUEST FOR RESET OF ITS RENEWABLE ENERGY ADJUSTOR.

DOCKET NO. E-01933A-12-0296

IN THE MATTER OF THE APPLICATION OF UNS ELECTRIC, INC. FOR APPROVAL OF ITS 2013 RENEWABLE ENERGY STANDARD IMPLEMENTATION PLAN AND DISTRIBUTED ENERGY ADMINISTRATIVE PLAN AND REQUEST FOR RESET OF ITS RENEWABLE ENERGY ADJUSTOR.

DOCKET NO. E-04204A-12-0297

PROCEDURAL ORDER
CONTINUING HEARING DATE AND
MODIFYING PROCEDURAL
SCHEDULE

BY THE COMMISSION:

On January 31, 2013, the Commission issued Decision Nos. 73636 for Arizona Public Service Company (“APS”), 73637 for Tucson Electric Power Company (“TEP”), and 73638 for UNS Electric, Inc. (“UNS”) in the above-captioned dockets (“2013 REST dockets”).¹ Those Decisions directed that the Commission would consider the proposed “Track and Record” mechanism (as well

¹ Proposed Orders Nunc Pro Tunc as requested by parties are pending for Decision Nos. 73636, 73637, and 73638.

1 as alternatives thereto), for APS, TEP and UNS (“collectively, “Utilities”) at a hearing. In addition,
 2 the Commission directed the Hearing Division to include within the scope of the hearing the subject
 3 matter of Commissioner Gary Pierce’s withdrawn Amendment No. 2, which would have required the
 4 exclusion of retail sales to the utilities’ largest customers (3MW or greater in demand) from their
 5 overall retail sales calculation under the Renewable Energy Standard and Tariff,² specifically A.A.C.
 6 R14-2-1804.

7 The parties to this proceeding currently include APS, TEP, UNS, the Commission’s Utilities
 8 Division (“Staff”), Freeport-McMoRan Copper & Gold, Inc. (“Freeport-McMoRan”), Arizonans for
 9 Electric Choice and Competition (“AECC”), Arizona Competitive Power Alliance (“Alliance”), Solar
 10 Energy Industries Association (“SEIA”), Western Resource Advocates (“WRA”), Arizona Solar
 11 Energy Industries Association (“AriSEIA”), Sonoran Solar, LLC (“Sonoran”), Wal-Mart Stores, Inc.
 12 and Sam’s West Inc. (collectively “Walmart”), the United States Department of Defense and all other
 13 Federal Executive Agencies (“DoD”), and Interwest Energy Alliance (“Interwest”).

14 On February 15, 2013, following a procedural conference held on February 14, 2013, a
 15 Procedural Order was issued consolidating the above-captioned dockets, granting pending
 16 interventions, and setting a hearing and associated procedural deadlines.

17 On February 20, 2013, the Utilities filed a Joint Request to Modify Procedural Order
 18 (“Request”). The Utilities request the following changes to the current procedural schedule:

	<u>Current</u>	<u>Requested</u>
20 Publication of Notice	March 1, 2013	March 15, 2013
21 Mailing of Notice	March 1, 2013	April 5, 2013
22 Direct Testimony, Utilities	March 15, 2013	March 29, 2013
23 Intervention Deadline	March 22, 2013	April 15, 2013 ³
24 Direct Testimony, Staff and Intervenors	April 10, 2013	April 24, 2013
25 Rebuttal Testimony, All Parties	May 1, 2013	May 8, 2013
26 Surrebuttal Testimony, All Parties	May 22, 2013, noon	May 22, 2013 noon

27
 28 ² Arizona Administrative Code (“A.A.C.”) R14-2-1801 et al. (“REST Rules”).

³ The Request also stated April 10, 2013 as a proposed intervention deadline.

1	Pre-hearing Conference	May 23, 2013	May 23, 2013
2	Hearing	May 29, 2013	May 29, 2013

3

4 The Request states that TEP and UNS do not have offices at which interested parties may
5 view or obtain the application and subsequent filings in this docket. TEP and UNS request the ability
6 to include library locations in their notices in lieu of an office location.

7 On February 22, 2013, WRA and Walmart each filed responses to the Request. WRA states
8 that it does not object to the Utilities' requested schedule modifications, and that it supports the April
9 15, 2013 deadline for intervention as opposed to an April 10, 2013 deadline, to allow customers more
10 time to intervene. Walmart states that it does not object to the proposed revised testimony filing
11 deadlines.

12 Also on February 22, 2013, DoD filed a Notice of Unavailability and Motion for Continuance
13 of Pre-Hearing Conference and Hearing. DoD requests that the pre-hearing conference and hearing
14 be rescheduled to a later date, after March 29, 2013, due to a conflict counsel for Dod has in a
15 proceeding before the Washington Utilities and Transportation Commission. The Notice states that
16 counsel for DoD is available on or after May 30, 2013, but requests that the pre-hearing conference
17 and hearing in this matter be continued to sometime in June 2013. DoD asserts in the Notice that this
18 matter is of significant importance to it, and that an inability to participate would result in severe
19 unfair prejudice.

20 The Utilities' and DoD's requests are reasonable and should be granted. The procedural
21 schedule and notice requirements set in the Procedural Order issued February 15, 2013, should be
22 modified as set forth below.

23 IT IS THEREFORE ORDERED that that the hearing directed by the Commission in Decision
24 Nos. 73636, 73637, and 73638 is hereby **continued** to commence on **June 3, 2013, at 10:00 a.m.**, or
25 as soon thereafter as is practicable, at the Commission's offices, 1200 West Washington Street,
26 Hearing Room No. 1, Phoenix, Arizona 85007.

27 IT IS FURTHER ORDERED that a pre-hearing conference is hereby **continued** to be held on
28 **May 30, 2013, commencing at 10:00 a.m.**, or as soon thereafter as practicable, at the Commission's

1 offices, 1200 West Washington Street, Hearing Room No. 1, Phoenix, Arizona 85007, for the
2 purpose of scheduling witnesses and the conduct of the hearing.

3 IT IS FURTHER ORDERED **direct testimony** and associated exhibits to be presented at
4 hearing by **APS, TEP and UNS** shall be reduced to writing and filed on or before **March 29, 2013**.

5 IT IS FURTHER ORDERED that **direct testimony** and associated exhibits to be presented at
6 hearing by **Staff and Intervenors** shall be reduced to writing and filed on or before **April 24, 2013**.

7 IT IS FURTHER ORDERED that **rebuttal testimony** and associated exhibits to be presented
8 by **all parties** shall be reduced to writing and filed on or before **on May 8, 2013**.

9 IT IS FURTHER ORDERED that **surrebuttal testimony** and associated exhibits to be
10 presented at the hearing by **all parties** shall be reduced to writing and filed no later than **noon** on
11 **May 22, 2013**.

12 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m. on the date the**
13 **filing is due, unless otherwise indicated above.**

14 IT IS FURTHER ORDERED that **any objections to testimony or exhibits that have been**
15 **prefiled as of May 22, 2013, shall be made before or at the May 30, 2013, pre-hearing**
16 **conference.**

17 IT IS FURTHER ORDERED that **all testimony filed shall include a table of contents** which
18 lists the issues discussed.

19 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to
20 prefiled testimony, with the exception of rejoinder testimony, shall be reduced to writing and filed no
21 later than five calendar days before the witness is scheduled to testify. **Substantive corrections,**
22 **revisions, or supplements to prefiled surrebuttal testimony shall be reduced to writing and**
23 **presented on the first day of hearing.**

24 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the
25 prefiled testimony of each of their witnesses and **shall file each summary at least two working**
26 **days before the witness is scheduled to testify.**

1 IT IS FURTHER ORDERED that copies of summaries shall be served upon the
2 Administrative Law Judge, the Commissioners, and the Commissioners' aides as well as the parties
3 of record.

4 IT IS FURTHER ORDERED that intervention shall be in accordance with A.A.C. R14-3-105,
5 except that **all motions to intervene must be filed on or before April 15, 2013.**

6 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
7 regulations of the Commission, except that until **April 12, 2013**, any objection to discovery requests
8 shall be made within 7 calendar days of receipt⁴ and responses to discovery requests shall be made
9 within 10 calendar days of receipt. Thereafter, objections to discovery requests shall be made within
10 5 calendar days and responses shall be made within 7 calendar days. The response time may be
11 extended by mutual agreement of the parties involved if the request requires an extensive compilation
12 effort.

13 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a
14 receiving party requests service to be made electronically, and the sending party has the technical
15 capability to provide service electronically, service to that party shall be made electronically.

16 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
17 discovery, any party seeking resolution of a discovery dispute may telephonically contact the
18 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery
19 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and
20 that the party making such a request shall forthwith contact all other parties to advise them of the
21 hearing date and shall at the hearing provide a statement confirming that the other parties were
22 contacted.⁵

23 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are
24 not ruled upon by the Commission within 20 calendar days of the filing date of the motion shall be
25 deemed denied.

26 _____
27 ⁴ The date of receipt of discovery requests is not counted as a calendar day, and requests received after 4:00 p.m. MST
will be considered as received the next business day.

28 ⁵ The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before
seeking Commission resolution of the controversy.

1 IT IS FURTHER ORDERED that any responses to motions shall be filed within five calendar
2 days of the filing date of the motion.

3 IT IS FURTHER ORDERED that any replies shall be filed within five calendar days of the
4 filing date of the response.

5 IT IS FURTHER ORDERED that APS, TEP and UNS shall provide public notice of the
6 hearing in this matter, in the following form and style, with the heading in no less than 24-point bold
7 type and the body in no less than 10-point regular type:

8
9 **PUBLIC NOTICE OF HEARING ON CERTAIN ISSUES IN THE 2013**
10 **RENEWABLE ENERGY RULES COMPLIANCE FILINGS OF ARIZONA**
11 **PUBLIC SERVICE COMPANY, TUCSON ELECTRIC POWER COMPANY,**
AND UNS ELECTRIC, INC.
(DOCKET NOS. E-01345A-10-0394 ET AL.)

12 On January 31, 2013, the Arizona Corporation Commission (“Commission”) issued Decisions on the
13 applications that Arizona Public Service Company (“APS”), Tucson Electric Power Company
14 (“TEP”), and UNS Electric, Inc. (“UNS”) (collectively, “Utilities”) filed in Docket Nos. E-01345A-
15 10-0394 et al. in order to satisfy their annual compliance requirements under Arizona Administrative
16 Code R14-2-1801 et al. (“Renewable Energy Rules”). The Commission’s Decisions on the 2013
17 Renewable Energy Rules compliance filings deferred two issues to a hearing, so that the Commission
18 can take evidence and hear legal arguments on certain issues. Those issues concern: 1) whether the
19 Utilities should be allowed, in the absence of payment of incentives, to use a “track and record”
20 means of securing compliance with their Distributed Renewable Energy Requirements under the
21 Renewable Energy Rules; and 2) whether the Utilities should be allowed, in their calculation of
22 Renewable Energy Rules requirements, to exclude retail sales to their largest customers (with 3
23 megawatts or greater in demand) from their overall retail sales calculations under Arizona
24 Administrative Code R14-2-1804.

25 The Commission will consider testimony and evidence on the two issues at a joint evidentiary hearing
26 involving the Utilities and interested parties. Parties to the proceeding will be required to file any
27 witness testimony and exhibits prior to the hearing. Witnesses presenting evidence will be required
28 to be present at the hearing for cross-examination on testimony and exhibits. Parties will also be
required to prepare and file legal briefs following the hearing to provide legal support for their
positions. The Commission is not bound by the proposals made by any party to this proceeding.

How You Can View or Obtain a Copy of Documents

Copies of the Utilities’ applications and subsequent filings are available at [APS, TEP and UNS
insert contact information] and at the Commission’s Docket Control Center at 1200 West
Washington, Phoenix, Arizona, for public inspection during regular business hours and on the
Internet via the Commission’s website www.azcc.gov using the e-Docket function, located at the
bottom of the web page, and referencing Docket Nos. E-01345A-10-0394 et al.

Arizona Corporation Commission Public Hearing Information

The Commission will hold a hearing on this matter beginning **June 3, 2013, at 10:00 a.m.**, at the
Commission’s offices, 1200 West Washington Street, Phoenix, Arizona. Public comments will be
taken on the first day of the hearing.

1 Interested parties may participate in this matter through (1) filing for intervention and becoming a
2 formal party to the proceeding; or (2) through written or oral public comment. **Written public**
3 **comments may be submitted at any time** by mailing a letter referencing **Docket Nos. E-01345A-**
4 **10-0394 et al.** to: Arizona Corporation Commission, Consumer Services Section, 1200 West
5 Washington, Phoenix, AZ 85007. If you require assistance, you may contact the Consumer Services
6 Section at 602.542.4251 or 1.800.222.7000.

7 If you do not intervene in this proceeding, you will receive no further notice of the proceedings in
8 these dockets. **However, all documents filed in this docket are available online** (usually within 24
9 hours after docketing) at the Commission's website www.azcc.gov using the e-Docket function,
10 located at the bottom of the web page and referencing Docket Nos. E-01345A-10-0394 et al. RSS
11 feeds are also available through e-Docket.

12 **About Intervention**

13 You do not need to intervene if you want to appear at the hearing and provide public comment on the
14 issues, or if you want to file written comments in the record of the case.

15 Any person or entity entitled by law to intervene and having a direct substantial interest in the matter
16 will be permitted to intervene. The granting of intervention entitles a party to present sworn evidence
17 at hearing and to cross-examine other witnesses. **If you wish to intervene, you must file an original**
18 **and 13 copies of a written motion to intervene with the Commission's Docket Control Center**
19 **no later than April 15, 2013, and send a copy of the motion to all parties of record.**

20 Contact information for the parties of record is located on the "Service List" tab for Docket No. E-
21 01345A-10-0394 et al. using the Commission's e-Docket function. Your motion to intervene must
22 contain the following:

- 23 1. Your name, address, and telephone number, and the name, address, and telephone number of
24 any party upon whom service of documents is to be made, if not yourself;
- 25 2. A short statement of your interest in the proceeding (e.g., a customer, a shareholder, etc.); and
- 26 3. A statement certifying that you have mailed a copy of the motion to intervene to all parties of
27 record in the case.

28 The granting of motions to intervene is governed by A.A.C. R14-3-105, except that all motions to
intervene must be filed on or before April 15, 2013. For a sample intervention request form, go to
<http://www.azcc.gov/divisions/utilities/FORMS/interven.pdf>. All parties must comply with Arizona
Supreme Court Rules 31 and 38 and A.R.S. § 40-243 with respect to the practice of law.

If you do intervene, and you wish to present direct testimony and associated exhibits at the
hearing, you must, on or before April 24, 2013: (1) reduce your witness direct testimony and
associated exhibits to writing, (2) file the original and 13 copies of your testimony and exhibits
with the Commission's Docket Control Center by 4:00 p.m., and (3) mail a copy to each party
of record.

29 **ADA/Equal Access Information**

30 The Commission does not discriminate on the basis of disability in admission to its public meetings.
31 Persons with a disability may request a reasonable accommodation such as a sign language
32 interpreter, as well as request this document in an alternative format, by contacting the ADA
33 Coordinator, Shaylin Bernal, email SAbernal@azcc.gov, voice phone number 602-542-3931.
34 Requests should be made as early as possible to allow time to arrange the accommodation.

1 IT IS FURTHER ORDERED that APS, TEP, and UNS shall mail to each of their customers a
2 copy of the above notice, and shall cause a copy of such notice to be published at least once in a
3 newspaper of statewide circulation, with publication to be completed no later than **March 15, 2013.**
4 and mailing to be completed no later than **April 5, 2013.**

5 IT IS FURTHER ORDERED that APS, TEP, and UNS shall share the costs of publication of
6 notice.

7 IT IS FURTHER ORDERED that APS, TEP, and UNS shall file affidavits of publication and
8 mailing as soon as possible after the mailing/publication has been completed, but no later than **April**
9 **15, 2013.**

10 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/publication
11 of same, notwithstanding the failure of an individual customer to read or receive the notice.

12 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
13 31, 38, and 42 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

14 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
15 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
16 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings
17 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for
18 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
19 Law Judge or the Commission.

20 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
21 Communications) applies to this proceeding and shall remain in effect until the Commission's
22 Decision in this matter is final and non-appealable.

23 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
24 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

25 ...

26 ...

27 ...

28

1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
2 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
3 hearing.

4 DATED this 26th day of February, 2013.

5
6
7 
8 TEENA JIBILIAN
ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered
10 this 26th day of February, 2013 to:

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