



0000142638

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE ARIZONA CORPORATION COMMISSION

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

Arizona Corporation Commission

DOCKETED

FEB - 6 2013

DOCKETED BY NR

IN THE MATTER OF THE APPLICATION)
OF ARIZONA PUBLIC SERVICE)
COMPANY TO MODIFY ITS POWER)
SUPPLY ADJUSTMENT MECHANISM)
PLAN OF ADMINISTRATION.)

DOCKET NO. E-01345A-11-0224

DECISION NO. 73650

ORDER

Open Meeting
January 30 and 31, 2013
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Arizona Public Service Company ("APS") is certificated to provide electric service as a public service corporation in the State of Arizona.

2. On July 27, 2012, APS filed an application to modify its Power Supply Adjustment ("PSA") Plan of Administration to allow recovery of the cost of carbon dioxide ("CO₂") allowances. Decision No. 73183 (May 24, 2012) held the APS rate case docket open for the purpose of allowing APS to request this modification.

3. The PSA provides for the recovery of fuel and purchased power costs to the extent that actual costs differ from the amount recovered through APS's base rates. The PSA Plan of Administration describes how the PSA works and lists the specific Federal Energy Regulatory Commission ("FERC") accounts that contain the costs allowed to be recovered through the PSA.

...

1 4. APS currently makes off-system sales to entities in California and other areas. Off-
2 system sales are sales of electricity to entities outside of the area for which APS has a generation
3 service obligation. The differences between the cost of the off-system sales and the revenue
4 received from the off-system sales are credited to the PSA to the benefit of APS customers.

5 5. Beginning in 2013, California will be implementing a greenhouse cap and trade
6 program under regulations administered by the California Air Resources Board. As a result, APS
7 may have to purchase CO₂ allowances to cover greenhouse gas emissions that California
8 associates with electricity imported into California. For APS, the cost of the allowances would be
9 incurred only for the purpose of making off-system sales into California.

10 6. The PSA Plan of Administration currently allows for margins on the sale of sulfur
11 dioxide ("SO₂") allowances to be recorded in Account 411 O&M. However, based on a discussion
12 with a FERC accountant, APS believes that the cost of CO₂ allowances should be recorded in
13 FERC Account 509 Allowances which is currently not specified in the PSA Plan of
14 Administration. Without netting the cost of the CO₂ allowances against the gross revenues
15 received from the off-system sales into California, APS would expect to lose money and therefore
16 would not make the sales.

17 7. Specifically, APS is requesting the following modifications to the Plan of
18 Administration:

- 19 • Page 1, under General Description, add the italicized phrase in the following
20 sentence:

21 "It also provides for refund or recovery of the net margins from sales of emission
22 allowances, to the extent the actual sales margins deviate from the base rate
23 amount of (\$0.000001) per kWh *and for recovery of mandated carbon emission*
24 *allowance costs when it is economical to incur those costs in making short-term*
25 *off-system sales.*"

- 26 • Page 7, add the following definition:

27 "Mandated Carbon Emission Allowance Costs - *The costs incurred in*
28 *purchasing allowances to meet legal requirements, beginning in 2013, that*

1 *electricity from resources which emit carbon must be accompanied by carbon*
 2 *emission allowances equal to the amount of carbon emitted in generating the*
 3 *electricity (recorded in FERC Account 509 - Allowances)."*

- 4 ● Page 11, under Accounts, add the following account:

5 "509 Allowances"

- 6 ● Schedule 2, add new Footnote 2:

7 ⁴² *Includes costs associated with the purchase of mandated carbon emission*
 8 *allowances."*

- 9 ● Schedule 3, add the italicized phrase below to Footnote 5:

10 ⁴⁵ *Includes native load and off-system fuel and purchased power costs, including*
 11 *the costs of acquiring mandated carbon emission allowances, ..."*

- 12 8. This is not an approval of a carbon tax on the ratepayers of Arizona.

- 13 9. California consumers will bear the costs of any allowances purchased by APS.

14 Recommendations

15 10. Staff has recommended approval of the proposed modifications to the PSA Plan of
 16 Administration, as discussed herein.

17 11. Staff has also recommended that a footnote be added to page 11, after 509
 18 Allowances, that states "or any successor FERC account used to record the costs of purchasing
 19 carbon emission allowances."

20 12. Staff further recommends that APS notify the Commission and all parties to this
 21 Docket at least 90 days prior to applying this amended Plan of Administration provision to sales
 22 made in any jurisdiction other than California. If a party to this Docket objects to such expansion
 23 of application of the instant Plan of Administration modification within 30 days of APS's
 24 notification, the Commission may schedule a process to resolve the issue. Pending resolution of
 25 the objection, APS would not apply the amended Plan of Administration language to sales in such
 26 non-California jurisdiction.

27 ...

28 ...

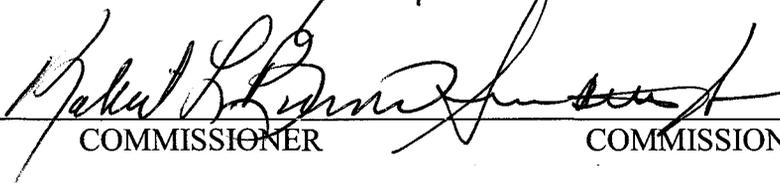
1 IT IS FURTHER ORDERED that Arizona Public Service Company shall notify the
 2 Commission and all parties to this Docket at least 90 days prior to applying this amended Plan of
 3 Administration provision to sales made in any jurisdiction other than California. If a party to this
 4 Docket objects to such expansion of application of the instant Plan of Administration modification
 5 within 30 days of Arizona Public Service Company's notification, the Commission may schedule a
 6 process to resolve the issue. Pending resolution of the objection, Arizona Public Service Company
 7 shall not apply the amended Plan of Administration language to sales in such non-California
 8 jurisdiction.

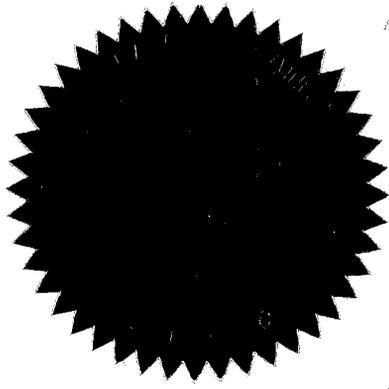
9 IT IS FURTHER ORDERED that Arizona Public Service Company shall file in Docket
 10 Control a Power Supply Adjustment Plan of Administration consistent with this Decision within
 11 10 days of the effective date of the Decision.

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

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

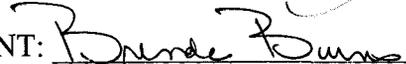
14  
 15 _____
 CHAIRMAN COMMISSIONER

16 
 17 _____
 18 COMMISSIONER COMMISSIONER COMMISSIONER



19 IN WITNESS WHEREOF, I, JODI JERICH, Executive
 20 Director of the Arizona Corporation Commission, have
 21 hereunto, set my hand and caused the official seal of this
 22 Commission to be affixed at the Capitol, in the City of
 Phoenix, this 6th day of February, 2012.

23 
 24 _____
 JODI JERICH
 EXECUTIVE DIRECTOR

25 DISSENT:  _____

26 DISSENT: _____

27 SMO: BK: sms\MAS

1 SERVICE LIST FOR: Arizona Public Service Company
DOCKET NO. E-01345A-11-0224

2

3 Thomas L. Mumaw
4 Melissa M. Krueger
Arizona Public Service Company
5 400 North 5th Street, MS 8695
Phoenix, Arizona 85004

6
7 C. Webb Crockett
8 Patrick J. Black
Fennemore Craig
3003 North Central Ave., Suite 2600
9 Phoenix, AZ 85012-2913
Attorneys for Freeport-McMoRan and AECC

10
11 Daniel Pozefsky, Chief Counsel
Residential Utility Consumer Office
1110 West Washington Street, Suite 220
12 Phoenix, AZ 85007-2958

13
14 Michael A. Curtis
William P. Sullivan
15 Curtis, Goodwin, Sullivan Udall & Schwab,
P.L.C
16 501 East Thomas Road
Phoenix, AZ 85012-3205
17 Attorneys for the Town of Wickenburg and
Town of Gilbert

18
19 Barbara Wyllie-Pecora
14410 West Gunsight Drive
20 Sun City West, AZ 85375

21
22 Timothy M. Hogan
Arizona Center For Law In The Public
Interest
23 202 East McDowell Road, Suite 153
Phoenix, AZ 85004
24 Attorney for Western Resource Advocates,
Southwest Energy Efficiency Project,
25 ASBA/AASBO

26
27 David Berry
Western Resource Advocates
P.O. Box 1064
28 Scottsdale, AZ 85252-1064

Jeff Schlegel
SWEEP Arizona Representative
1167 W. Samalayuca Dr.
Tucson, AZ 85704-3224

Kurt J. Boehm
Jody Kyler
Boehm, Kurtz & Lowry
36 East 7th Street, Suite 1510
Cincinnati, OH 45202
Attorneys for Kroger Co.

Jeffrey W. Crockett
Brownstein, Hyatt, Farber Schreck, LLP
1 E. Washington St., Suite 2400
Phoenix, AZ 85004
Attorney for Arizona Association of Realtors

John William Moore, Jr.
7321 North 16th Street
Phoenix, AZ 85020

Cynthia Zwick
1940 East Luke Avenue
Phoenix, AZ 85016

Michael W. Patten
Roshka Dewulf & Patten PLC
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, AZ 85004
Attorney for TEP

Bradley Carroll
Tucson Electric Power Co.
One South Church Avenue, Suite UE 201
Tucson, AZ 85701

Michael M. Grant
Gallagher & Kennedy
2575 East Camelback Road
Phoenix, AZ 85016-9225
Attorneys for AIC

1	Gary Yaquinto	Scott S. Wakefield
	Arizona Investment Council	Ridenour, Hienton & Lewis, P.L.L.C.
2	2100 North Central Avenue, Suite 210	201 N. Central Ave., Suite 3300
3	Phoenix, AZ 85004	Phoenix, AZ 85004-1052
		Attorney for Wal-Mart
4	Karen S. White	
	Air Force Utility Law Field Support Center	Steve W. Chriss
5	AFLOA/JACL-ULFSC	Wal-Mart Stores, Inc.
	139 Barnes Drive	2011 S.E. 10th Street
6	Tyndall AFB, FL 32403	Bentonville, AR 72716-0500
7	Attorney for FEA	
		Craig A. Marks
8	Greg Patterson	Craig A. Marks, PLC
	Munger Chadwick	10645 N. Tatum Blvd., Suite 200-676
9	2398 East Camelback Road, Suite 240	Phoenix, AZ 85028
	Phoenix, AZ 85016	Attorney for AARP
10	Attorney for ACPA	
		Samuel T. Miller
11	Nicholas J. Enoch	USAF Utility Law Field Support Center
12	Lubin & Enoch, P.C.	139 Barnes Ave., Suite 1
	349 N. 4th Avenue	Tyndall AFB, FL 32403
13	Phoenix, AZ 85003	
	Attorney for IBEW Locals 387, 640 and 769	Douglas V. Fant
14		Law Offices of Douglas V. Fant
15	Lawrence V. Robertson, Jr.	3655 W. Anthem Way, Suite A-109, PMB
	Attorney At Law	411
16	P.O. Box 1448	Anthem, AZ 85036
	Tubac, AZ 85646	Attorney for Interwest Energy Alliance
17	Attorney for SWPG/Bowie and	
18	Noble/Constellation/Direct/Shell	Steven M. Olea
		Director, Utilities Division
19	Laura E. Sanchez	Arizona Corporation Commission
	NRDC	1200 West Washington Street
20	P.O. Box 287	Phoenix, Arizona 85007
	Albuquerque, NM 87103	
21		Janice M. Alward
22	Jay Moyes	Chief Counsel, Legal Division
	Steve Wene	Arizona Corporation Commission
23	Moyes Sellers & Hendricks, Ltd	1200 West Washington Street
	1850 N. Central Ave., Suite 1100	Phoenix, Arizona 85007
24	Phoenix, AZ 85004-4527	
	Attorney for AzAg	
25		
26	Jeffrey J. Woner	
	K.R. Saline & Assoc., PLC	
27	160 N. Pasadena, Suite 101	
	Mesa, AZ 85201	
28		

COMMISSIONERS
BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTERSMTIH



BRENDA BURNS
COMMISSIONER
Direct Line: (602) 542-0745
Fax: (602) 0765
E-mail: Burns-web@azcc.gov

ARIZONA CORPORATION COMMISSION

February 5, 2013

Re: Arizona Public Service 2010 Test Year Rate Case
Application to Modify its Power Supply Adjustment Mechanism Plan of Administration
Docket No. E-02345A-11-0224

Dissent by Commissioner Brenda Burns

The questions I asked and the issues I raised, in the Open Meeting on January 30, 2013, were not answered in a manner sufficiently satisfactory for me to support APS's requested modification. Therefore, since I am not fully confident that Arizona ratepayers would be spared California's carbon tax (Assembly Bill 32, the "Global Warming Solutions Act"), I must dissent.

In last year's Open Meeting, for the APS rate case, conducted May 15, 2012, Jeff Guldner of APS stated that, "California adopted rules that say that **sellers** into the California market need to pay a carbon tax that reflects the carbon makeup of their portfolio. And so it's calculated differently for each seller into California."ⁱ

Mr. Guldner further explained that APS's power supply adjustor does not include the FERC account that APS would book in order to make a sale.ⁱⁱ I appreciate that APS has asserted that the highest margin for a sale may still be California with the carbon tax. I'm also cognizant that Staff indicated that, in last week's Open Meeting, that the proposed order only provided for CO2 allowances needed for California transactions recorded in FERC Account 509. But, either way, Arizona ratepayers are technically assessed a carbon tax as part of a larger cap-and-trade program that California is implementing.

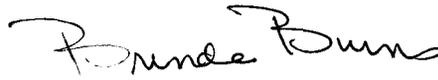
My concerns go beyond a mere accounting modification. I do not endorse nor do I want Arizona to pay for California's expensive environmental agenda. If California wants to reduce greenhouse gas emissions, it should pay for those reductions instead of assessing a tax on an inter-state transaction. In fact, I am concerned there may be legal implications for California to assess a tax on emissions emanating from another state.

The amendments that were voted on, passed unanimously by the Commission, took a positive step towards trying to solve the problem. However, while one amendment stated that APS shall pass the carbon tax costs "on to the California entities that are purchasing energy", there is no guarantee that the overall base sales price will remain unaffected.

I am concerned that this Commission, and future Commissions, will not know if the base sales price for power will be unaffected or adjusted downward in order to make up for the carbon tax.

Furthermore, I am concerned about the long-term consequences. By taking action now to solve a short-term problem due to California's actions, we might be aiding and abetting a path toward a more expensive proposition for Arizona ratepayers. California's law mandates that the seller bear the cost of the carbon tax. APS has assured the Commission that it will pass the cost on to California. However, there is no mechanism currently in place to verify the assertion on an ongoing basis. In addition, California's law provides for a reduction of allowances over time. We do not know how APS plans to continue selling power despite decreased allowances.

Due to my concerns about how Arizona ratepayers are potentially exposed to a carbon tax, imposed by another state, I have no choice but to dissent in this decision.



Brenda Burns
Commissioner

ⁱ Transcript, APS Rate Case, Special Open Meeting, May 15, 2012, page 185

ⁱⁱ Id, page 186