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BEFORE THE ARIZONA CORPORATION COMMISSION

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ARIZONA CORPORATION COMMISSION
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COMMISSIONERS
BOB STUMP- CHAIRMAN
GARY PIERCE
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BOB BURNS
SUSAN BITTER SMITH

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 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 RENEWABLE)
ENERGY ADJUSTOR)

DOCKET NO. E-04204A-12-0297

NOTICE OF FILING

Tucson Electric Power Company and UNS Electric, Inc., through undersigned counsel,
hereby file the Direct Testimony of Carmine Tilghman regarding the Track and Record issue.

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RESPECTFULLY SUBMITTED this 29th day of March 2013.

TUCSON ELECTRIC POWER COMPANY

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Original and 13 copies of the foregoing
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ENERGY ADMINISTRATIVE PLAN AND)
REQUEST FOR RESET OF RENEWABLE)
ENERGY ADJUSTOR)
_____)

DIRECT TESTIMONY OF CARMINE TILGHMAN

ON BEHALF OF

TUCSON ELECTRIC POWER COMPANY AND UNS ELECTRIC, INC.

MARCH 29, 2013

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1 **I. INTRODUCTION.**

2

3 **Q. Please state your name and business address.**

4 A. Carmine Tilghman, 88 East Broadway, Tucson, Arizona 85702.

5

6 **Q. By whom are you employed and in what capacity?**

7 A. I am the Director of Renewable Resources and Programs for Tucson Electric Power
8 Company (“TEP” or “Company”).

9

10 **Q. Please describe your background and work experience.**

11 A. I served in the United States Navy from 1984–1993 as a Nuclear Reactor Operator in
12 Submarine Service. From 1993-1995, I worked as a Power Plant Operator for the
13 Biosphere II Project in Oracle, Arizona.

14

15 I was hired by TEP in 1995 as a Power Plant Operator. In 1996, I moved into TEP’s
16 Wholesale Marketing Department where I held several positions in Energy Trading,
17 Marketing, Project Management, and Scheduling before being promoted to
18 Supervisor/Manager in 2003. From 2003-2008, I held supervisory positions in Trading,
19 Scheduling, and Procurement before taking over Utility Scale Renewable Energy
20 Development in 2008.

21

22 I received my Bachelor of Science in Business Management from the University of
23 Phoenix in 2000 and Master of Business Administration from the University of Phoenix in
24 2002.

25

26

27

1 In 2010, I took over all aspects of renewable energy development for both TEP and UNS
2 Electric, Inc. (“UNS Electric”) (collectively, “Companies”). In 2012, I was promoted to
3 my current position of Director of Renewable Resources and Programs. In my current
4 position, I am responsible for the renewable resources and renewable resource programs
5 for the Companies, including compliance with the Arizona Corporation Commission’s
6 (“Commission”) Renewable Energy Standard and Tariff Rules (“REST Rules”) (A.A.C.
7 R14-2-1801 through R14-2-1818)).
8

9 **Q. What is the purpose of your testimony?**

10 A. I am testifying on behalf of both TEP and UNS Electric. My testimony addresses: (i) the
11 Companies’ understanding of the history of Track and Record, including the issues that led
12 to the initial proposal from Arizona Public Service Company (“APS”); (ii) the potential
13 processes to allow the Companies to meet the distributed generation requirements of the
14 REST rules when they no longer provide incentive payments, and as a result do not obtain
15 Renewable Energy Credits (“RECs”) from the customer; and (iii) the Companies’
16 preferred approach of amending the REST Rules to eliminate the Distributed Generation
17 (“DG”) requirement as currently designed.
18

19 **II. BACKGROUND.**
20

21 **Q. Please describe the Companies’ understanding of the history of the proposed**
22 **“Track and Record” mechanism?**

23 A. In Decision No. 69127 (November 14, 2006)) the Commission adopted the REST Rules,
24 which require the Companies (and other affected utilities) to obtain a certain level of
25 energy each year from Eligible Renewable Energy Resources – the Annual Renewable
26 Energy Requirement. See A.A.C. R14-2-1804. A utility must meet the Annual Renewable
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Energy Requirement by obtaining RECs from qualified renewable resources. See A.A.C. R14-2-1804.A.

The REST rules also require that a certain portion of the Annual Renewable Energy Requirement be satisfied through DG resources. A.A.C. R14-2-1805. To meet that requirement, utilities must obtain RECs from eligible Distributed Renewable Energy Resources. See A.A.C. R14-2-1805.A.

In order for the utility to prove compliance with the REST rules, a utility must document that it had acquired the necessary RECs. A.A.C. R14-2-1803. Therefore utilities, including the Companies, developed a contractual agreement in which the customer transferred the DG RECs to the Companies in exchange for an incentive (either up front or over time) that helped subsidize the cost of the renewable system. All renewable energy production and related RECs from those DG systems would then be used to count towards the utilities' DG requirement.

The problem that utilities now face is that the incentives they provide to their customers are rapidly approaching zero. In the very near future, it will no longer necessary to subsidize renewable energy systems with utility incentives or "rebates". In fact, there are a number of DG systems, both installed and under construction in TEP's service area, that have not taken any utility incentives. Without an incentive payment and related contractual arrangement, utilities cannot claim the RECs from a DG system. Therefore, although the mandate of serving a portion of our sales with renewable energy is being met, the Companies cannot count that renewable generation as meeting the REST requirement because they have not obtained the RECs as required under the REST rules.

1 **Q. How did this result in the proposed Track and Record process?**

2 A. While TEP's 2013 Renewable Energy Implementation Plan identified the issue of how to
3 comply with the DG requirements when incentives are no longer needed, TEP did not
4 specifically propose the "Track and Record" option. However, TEP did propose several
5 other options to address the issue (which are discussed in more detail below), one of
6 which was very similar to Track and Record. Arizona Public Service Company ("APS")
7 proposed the Track and Record process in its 2013 Renewable Energy Implementation
8 Plan.

9
10 Under the Track and Record process proposed by APS, the utility would demonstrate
11 compliance with the REST Rules by tracking and recording DG production from all DG
12 systems that were interconnected with APS's system *independent* of REC ownership.

13
14 In its Staff Report and proposed order on APS's 2013 Plan, the Commission's Utilities
15 Division ("Staff") recommended approval of APS's Track and Record proposal. The
16 Staff Reports and proposed orders for TEP's and UNS Electric's 2013 Plans also
17 recommended Track and Record as the process for demonstrating compliance with the
18 REST Rules.

19
20 **Q. Is TEP currently facing the issue of interconnected DG systems that have not
21 received incentives?**

22 A. Yes. As noted in TEP's 2013 Renewable Energy Implementation Plan, TEP had six
23 residential customers and one commercial customer that had requested net-metering (*i.e.*
24 interconnection with TEP) without receiving a utility incentive. These customers
25 represent an aggregate total of more than 4 MW of distributed generation. Since that
26 time, an additional 50.03 kW of generation in TEP's service area has requested net
27

1 metering, without receiving a utility incentive. This capacity represents is a combination
2 of residential solar and commercial wind projects, all of which applied for
3 interconnection on our system.
4

5 **III. THE COMPANIES' POSITION ON DG COMPLIANCE.**
6

7 **Q. What did TEP propose to address DG compliance in the absence of incentives?**

8 A. In its 2013 Renewable Energy Implementation Plan filed on July 2, 2012, TEP set forth
9 several possible options to address the issue:

- 10 1. Change or waive the existing Resource Portfolio Standard ("RPS") to eliminate
11 either the DG requirement, or the requirement to retire RECs associated with the
12 customer-sited distributed generation system, and allow the utility to report metered
13 production data in order to show the percentage of sales associated with renewable
14 energy;
- 15 2. Allow utilities to modify their existing net-metering tariffs to require customers to
16 surrender all credits and environmental attributes in exchange for net-metering;
- 17 3. Allow utilities to meet the RPS DG requirement by showing a percentage of their
18 sales through metered data without the requirement of retiring RECs (and without
19 altering the existing rules)¹; and
- 20 4. In the absence of existing rule changes, allow the utilities to request waivers for
21 meeting the DG requirement through the use of REC retirement and allow the
22 utility to show compliance in an alternative manner.

19 **Q. What do the Companies believe is the appropriate action to resolve this issue?**

20 A. The Companies recommend that the Commission reopen the REST Rules and eliminate
21 the DG requirement as currently designed. Any other solution would require some sort of
22 waiver of the REST Rules. To be clear, the Companies are not advocating for any change
23 to the REST Rules other than eliminating the DG requirement. Utilities would still need to
24 meet the overall Annual Renewable Energy Requirement, except that there would no
25 longer be specific requirements for certain types of generation.
26

27 ¹ This option is similar to Track and Record.

1 The original intent of utility incentives was to subsidize the cost of customer-owned
2 systems in order to achieve the benefits of DG. As we approach the time when the cost of
3 renewable energy systems has decreased to the point where utility incentives are no longer
4 needed, it is simply not necessary or appropriate to hold the utilities responsible for
5 achieving a customer behavior based standard (i.e. emplacement of DG resources) in
6 which the utility does not participate in the decision-making process. In short, since the
7 Company will not be offering any incentives, it no longer influences the customer's
8 decision. As such, there is no longer a direct connection between the customer's decision
9 to install DG and the Companies' ability to comply with the Standard. Therefore, the DG
10 carve out should be eliminated.

11
12 The Companies believe revising the REST Rules in a manner to reflect the new realities of
13 the DG market is the best long-term solution to the issue we are now facing. It provides
14 more certainty to the utilities and the renewable industry and it is more conducive to
15 integrated resource planning. However, we would still need a short-term solution to
16 the issue before the REST Rules are revised. Potential interim options are addressed
17 below.

18
19 **Q. Do the Companies believe the proposed Track and Record mechanism could be an**
20 **appropriate resolution?**

21 A. The Companies have concern with the Track and Record mechanism, both as an interim
22 approach and as a long-term solution. First, while the Companies initially did not have any
23 specific objections to the Track and Record concept, they have since learned that at least
24 one federal entity would be unable to comply with an applicable federal Executive Order
25 should TEP effectively claim their RECs through Track and Record. The Companies
26 recognize that the Commission is not bound by such Executive Orders, but the Companies
27

1 would like to acknowledge that the Track and Record Mechanism presents a unique
2 problem for federal entities (some of which are customers of the Companies) operating
3 under that Executive Order.
4

5 Second, the Track and Record Mechanism will also require a waiver of the REST rules.
6 The REST rules state that *“any contract by an affected utility for purchase or sale of*
7 *energy and/or Renewable Energy Credits to meet the requirements of this rule shall*
8 *explicitly describe the transfer of rights concerning both energy and Renewable Energy*
9 *Credits.”* A.A.C. R14-2-1803.F. Additionally, the REST states that *“a Renewable Energy*
10 *Credit is owned by the owner of the Renewable Energy Resource from it was derived*
11 *unless specifically transferred.”* A.A.C. R14-2-1803.C. The Companies are concerned
12 that there is no actual transfer of the legal title to the RECs under the proposed Track and
13 Record. Therefore, a utility would likely need a waiver of those REST rule requirements
14 as part of the Track and Record approach.
15

16 **Q. What do you recommend in the interim before the REST rules are revised?**

17 A. The Companies understand that rulemaking will take some time. Perhaps the simplest
18 solution would be to grant utilities a full waiver from the Distributed Renewable Energy
19 Requirement until the REST rules are revised. However, there are other options that could
20 also serve as a bridge during the rulemaking process:

- 21 1. As stated above, and should the Commission agree that it is appropriate to amend
22 the existing REST Rules, the Companies believe a full waiver from the Distributed
23 Renewable Energy Requirement would be appropriate until the REST rules have
24 been modified. This would allow the Companies to meet the REST Rules
25 percentage requirement with RECs from all resources while the REST Rules are
26 amended, without penalizing the Companies for non-compliance.
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2. As an alternative to a waiver, the Commission also could requiring a customer to transfer its DG system’s RECs to a utility in exchange for net-metering as fair compensation for the benefits associated with net-metering. This proposal would require the utilities to file updated net-metering tariffs that would require transfer of RECs in exchange for net metering.

3. Should the Commission determine neither of the above proposals is appropriate as an interim solution, the Companies propose a third solution in which the Companies would institute a “Track and Reduce” mechanism. This option would allow utilities to report the number of kWh sales served from customers renewable energy systems where no transfer of RECs took place – and then reduce the utility’s Annual Renewable Energy Requirement by that amount. The customer retains ownership of the RECs and would be free to sell them in any market; however, the utility’s requirement would be reduced by those amounts. This proposal would also require a waiver of the Rules the Distributed Renewable Energy Requirement, since the utility would still not have the RECs to prove compliance as required under the REST Rules.

Q. In the absence of modifying the REST Rules as previously discussed, do the Companies support the concept of annual waivers?

A. Many of the possible solutions to the DG compliance issue involve the need for some sort of waiver of the REST Rules. While the Companies acknowledge that the Commission has the authority to grant waivers, the Companies believe it would create unnecessary uncertainty for the utilities and the industry. Because the Companies would require a waiver each and every year, the Companies believes the best approach is to provide a solution to the issue, and eliminate the DG requirements under the REST Rules, rather than

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subject the Companies to seeking annual waivers from the current and future Commissions.

Q. What is the Companies' position on procuring DG RECs through an auction process?

A. Some parties have previously submitted comments on Staff's Track and Record recommendation and proposed that utilities be required to hold an auction to procure DG RECs. Even if the Companies supported maintaining the DG requirement, it could not support a program that would require additional payments through an auction mechanism as long as the current net-metering rules are in place. This solution would end up requiring the utilities – and ultimately the *ratepayers* – to further subsidize systems while creating an artificial REC value in order to obtain RECs. This approach simply creates an alternative subsidy mechanism that the utility (and ultimately the ratepayer) must pay in order to comply with the REST Rules. Given that these incentives will not be needed in the near future, the Companies cannot support any mechanism that simply replaces one subsidy for another.

Q. Does that conclude your direct testimony?

A. Yes.