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ARIZONA CORPORATION COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

SM

IN THE MATTER OF THE
APPLICATION OF ARIZONA PUBLIC
SERVICE COMPANY FOR APPROVAL
OF UPDATED GREEN POWER RATE
SCHEDULES 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

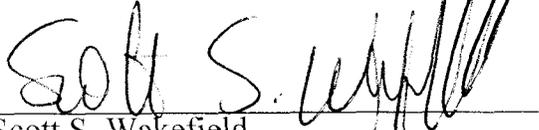
WAL-MART STORES, INC. AND SAM'S WEST, INC.'S

NOTICE OF FILING

1 Wal-Mart Stores, Inc. and Sam's West, Inc. (collectively "Walmart"), hereby
2 provides notice of filing the Direct Testimony of Ken Baker in the above-referenced
3 matter.

4 Dated this 24 day of April, 2013.

5 RIDENOUR, HIENTON, & LEWIS, P.L.L.C.

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11 ORIGINAL and 13 copies filed
12 this 24 day of April, 2013 with:

13 Docket Control
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TESTIMONY OF KEN BAKER

**On Behalf of Wal-Mart Stores, Inc.
and Sam's West, Inc.**

**Docket Nos. E-01345-A-10-0394; E-01345A-12-0290;
E-01933A-12-0296; E04204A-12-0297**

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Introduction

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND OCCUPATION.

A. My name is Kenneth E. Baker. My business address is 2001 SE 10th St., Bentonville, AR 72716-0550. My title is Senior Manager for Sustainable Regulation for Wal-Mart Stores, Inc.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS DOCKET?

A. I am testifying on behalf of Wal-Mart Stores, Inc. and Sam's West, Inc. (collectively "Walmart").

Q. PLEASE DESCRIBE YOUR EDUCATION AND EXPERIENCE.

A. In 1985 I received my B.S. degree in Health Science from College of St. Frances and later attended law school at the University of Arkansas at Little Rock School of Law, graduating in 1992 with a J.D. degree. I then practiced law at the Center for Arkansas Legal Services from 1992 – 1999 prior to joining Walmart. Early in my career at Walmart, I have held the position of Manager of Real Estate where I helped locate sites for distribution

1 centers. My duties in this position included locating sites and negotiating with
2 communities to build distribution centers. In 2006, I transferred to the Energy
3 Department and am currently the Senior Manager for Sustainable Regulation
4 and Legislation. My current duties include, monitoring and participation in
5 utility commission cases and monitoring legislation that primarily deals with
6 policy matters that could potentially impact Walmart business. I have also
7 been involved in the negotiation, drafting, and execution of renewable energy
8 and energy efficiency contracts.

9 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE**
10 **THE ARIZONA PUBLIC SERVICE COMMISSION ("THE**
11 **COMMISSION")?**

12 A. No.

13 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE**
14 **OTHER STATE REGULATORY COMMISSIONS?**

15 A. Yes. I have submitted testimony before Commissions in Arkansas, Missouri,
16 New Mexico, South Carolina, and Massachusetts. In addition, I have
17 submitted testimony before legislative committees in Texas and Pennsylvania.
18 My testimony has included topics concerning demand response and other
19 demand side management measures and renewable energy issues.

20 **Q. WHAT IMPACT DOES WALMART HAVE ON THE ARIZONA**
21 **ECONOMY?**

22 A. As of January, 2013, Walmart has 112 facilities and over 31,000 associates in

1 Arizona. Additionally, as of fiscal year ending 2013, Walmart spent over
2 \$681 million for merchandise and services with Arizona suppliers, supporting
3 26,232 supplier jobs in the state.¹

4 **Q. CAN WALMART PROVIDE EXAMPLES OF HOW A LARGE**
5 **COMMERCIAL ENERGY CUSTOMER CAN MAKE SUBSTANTIAL**
6 **CONTRIBUTIONS TOWARDS THE GOAL OF IMPLEMENTATION**
7 **OF RENEWABLE ENERGY?**

8 A. Yes. Walmart has made an operational commitment to environmental
9 stewardship in many aspects of its business, including the installation and use
10 of renewable energy and energy efficiency technologies. Currently in
11 Arizona, Walmart has 22 operating solar installations.

12 **Q. CAN YOU PROVIDE AN EXAMPLE OF THE AMOUNT OF**
13 **RENEWABLE ENERGY GENERATED AT WALMART FACILITIES**
14 **IN ARIZONA?**

15 A. In 2012 Walmart solar facilities in Arizona generated approximately 62
16 million kWh of renewable energy.

17
18 **Purpose of Testimony**

19 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

20 A. The purpose of my testimony is to address the proposals for the treatment of
21 distributed energy ("DE") renewable energy credits ("RECs") and compliance

¹ See <http://corporate.walmart.com/our-story/locations/united-states#/united-states/arizona>

1 with the Renewable Energy Standard and Tariff Rules ("REST") put forth by
2 Arizona Public Service Company ("APS"), Tucson Electric Power Company
3 ("TEP"), and UNS Electric, Inc. ("UNS"). I respond specifically to the
4 testimonies of Greg Bernosky on behalf of Arizona Public Service Company
5 ("APS") and Carmine Tilghman on behalf of Tucson Electric Power Company
6 ("TEP") and UNS Electric, Inc. ("UNS").
7

8 **Summary of Recommendations**

9 **Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.**

10 A. My recommendations to the Commission are as follows:

- 11 1) The Commission should reject the first and second options presented by TEP
12 and UNS.
- 13 2) Walmart takes no position at this time on the "Track and Reduce" proposal of
14 TEP and UNS, however, Walmart reserves the right to comment in future
15 testimony.
- 16 3) Walmart endorses the portion of the APS proposal in which the customer or
17 system owner would retain the RECs associated with their generation system
18 and the utility would record and report the renewable generation for
19 informational purposes.
- 20 4) Walmart opposes the specific proposal by APS to eliminate the DE
21 requirement from the RPS requirement of each utility.
- 22 5) If the Commission deems it necessary to suspend the DE requirement in the

1 RPS, Walmart proposes that only a temporary waiver be given.

2 **APS, TEP, and UNS Proposals**

3 **Q. PLEASE SUMMARIZE YOUR UNDERTANDING OF THE APS**
4 **PROPOSAL FOR THE TREATMENT OF RECS.**

5 A. It is my understanding that APS proposes a "Track and Record" system
6 whereby APS: 1) would no longer have a firm DE requirement and no longer
7 acquire RECs generated through DE and 2) APS would track the amount of
8 incremental energy from newly installed DE systems and report that
9 information to the Commission for informational purposes. *See* Direct
10 Testimony of Gregory L. Bernosky, page 6, line 9 to line 15.

11 **Q. WHY DOES APS PROPOSE TO ELIMINATE ITS DE**
12 **REQUIREMENT?**

13 A. Based upon the testimony of APS witness Bernosky, APS is in a position
14 where incentives are no longer necessary in order for APS to achieve
15 compliance with its obligations under the Renewable Energy Standard
16 ("RES") rules. The testimony indicates that the owner of the system would
17 retain the REC's generated by the renewable system and APS would track the
18 generation for informational purposes. *Id.*, page 2, line 11 to line 12.

19 **Q. PLEASE SUMMARIZE YOUR UNDERSTANDING OF THE TEP AND**
20 **UNS PROPOSALS FOR THE TREATMENT OF RECS.**

21 A. It is my understanding that TEP and UNS recommend the following three
22 options to the Commission:

- 1 1) Granting of a full waiver of the REST rules until the rules have been modified
2 with no indication of the treatment of RECs in the interim;
- 3 2) The Commission could require a customer to transfer its renewable energy
4 system RECs to the utility in exchange for net-metering as fair compensation
5 for the benefits associated with net metering; and
- 6 3) A "Track and Reduce" mechanism. TEP/UNS witness Tilghman describes
7 the mechanism as a method of allowing the utilities to report the number of
8 kWh sales served from customers renewable energy systems where no transfer
9 of RECs took place and then reduce the utility's annual renewable energy
10 requirement by that amount. This method would allow the customer to retain
11 ownership of the RECs where they would be able to sell the RECs in any
12 market. *See* Direct Testimony of Carmine Tilghman, page 7, line 16, to page
13 8, line 17.

14 **Q. DOES WALMART RECOMMEND ADOPTION OF THE FIRST AND**
15 **SECOND OPTIONS PUT FORTH BY TEP AND UNS?**

16 A. No. The Commission should reject the first option because the proposal could
17 have adverse impact on the diversity of the renewable generation mix by
18 discouraging customers from installing distributed renewable generation. The
19 REST rules were put in place to encourage the installation and proliferation of
20 renewable energy resources. If the rules were suspended for any reason, the
21 customers that still rely on ratepayer funded incentives, would likely not go
22 forward with their plans. Therefore, a reduction in the amount of customer

1 sited renewable energy systems would likely be seen.

2 In regards to the second option, Walmart has concerns over the portion
3 of the proposal in which the utilities state, "As an alternative to a waiver, the
4 Commission also could require a customer to transfer its DG system's RECs
5 to a utility in exchange for net-metering as fair compensation for the benefits
6 associated with net-metering." There is no guarantee that the renewable
7 energy systems installed on a customer's property will produce more power
8 than will be used in the facility. Furthermore, to take RECs in exchange for
9 net metering would be tantamount to simply taking the RECs with no
10 compensation to either the customer or the system owner. Additionally, even
11 if circumstances did exist in which a customer transferred their renewable
12 energy generation back onto the grid is still objectionable on public policy
13 grounds, in that it would unjustly enrich the utility, while leaving the pro-
14 active customer without the benefit of the associated REC and, therefore, no
15 claim to the generation of renewable power.

16 **Q. DOES WALMART HAVE A POSITION ON THE "TRACK AND**
17 **REDUCE" MECHANISM SUGGESTED BY TEP AND UNS?**

18 A. Walmart takes no position at this time on the "Track and Reduce" proposal
19 and reserves the right to comment in future testimony as more information
20 becomes available. However, Walmart would oppose any attempt to
21 permanently eliminate any portion of the DE carve-out.

22 **Q. WHAT IS WALMART'S POSITION ON THE PROPOSAL PUT**

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FORTH BY APS?

A. Walmart endorses the specific portion of the APS proposal in which the customer or system owner would retain the RECs associated with their generation system and the utility would record and report the renewable generation for informational purposes. However, Walmart opposes the proposal to eliminate the DE requirement. To permanently remove the DE requirement has a potentially chilling impact on customer-sited installations.

Q. DOES WALMART HAVE ANY RECOMMENDATIONS FOR THE COMMISSION CONCERNING THIS ISSUE?

A. Walmart recommends that if the Commission deems it necessary to suspend the DE requirement that only a temporary waiver be given. Mr. Bernosky states in his testimony beginning on page 2, line 11 "APS is now in a position where DE incentives are no longer necessary for APS to achieve compliance with the RES rules over the next several years." That statement implies that there may come a time when the DE carve-out is again necessary to continue the installation of customer sited renewable generation facilities. As such, customers should have the opportunity to participate in the program and provide diversity in the generation base in the territory of each utility.

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes.