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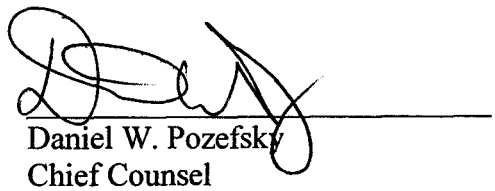
IN THE MATTER OF ARIZONA PUBLIC SERVICE COMPANY REQUEST FOR APPROVAL OF UPDATED GREEN POWER RATE SCHEDULE GPS-1, GPS-2, AND GPS-3.	Docket No. E-01345A-10-0394
IN THE MATTER OF THE APPLICATION OF ARIZONA PUBLIC SERVICE COMPANY FOR APPROVAL OF ITS 2013 RENEWABLE ENERGY STANDARD IMPLEMENTATION FOR RESET 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

RUCO'S NOTICE OF FILING

The RESIDENTIAL UTILITY CONSUMER OFFICE ("RUCO") hereby provides notice of filing the Direct Testimony of Jennifer Martin, Executive Director, Center for Resource Solutions, in the above-referenced matter.

RESPECTFULLY SUBMITTED this 10th day of June, 2013.



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UNS ELECTRIC, INC.

DOCKET NO. E-01345A-10-0394
DOCKET NO. E-01345A-12-0290
DOCKET NO. E-01933A-12-0296
DOCKET NO. E-04204A-12-0297

DIRECT TESTIMONY

OF

JENNIFER MARTIN, EXECUTIVE DIRECTOR

CENTER FOR RESOURCE SOLUTIONS

ON BEHALF OF

THE

RESIDENTIAL UTILITY CONSUMER OFFICE

JUNE 10, 2013

Q. Please state your name and business address.

A. My name is Jennifer Martin. My business address is Center for Resource Solutions, 1012 Torney Ave, 2nd Floor, San Francisco, California, 94129.

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

A. I am employed by Center for Resource Solutions as Executive Director.

Q. Please describe Center for Resource Solutions.

A. Center for Resource Solutions (CRS) is a 501(c)(3) nonprofit organization whose mission is to develop policy and market solutions to advance sustainable energy. CRS was founded in 1997. CRS manages an array of programs that aim to increase the use of renewable sources of energy and mitigate climate change. CRS's programs address renewable energy policy and market issues in the United States and abroad. CRS works in a variety of areas, including providing expert assistance at state, regional, and national levels on renewable energy policy issues; advising organizations on options for using renewable energy and how to appropriately describe that renewable energy use; and offering consumer protection and certification programs under the Green-e brand. Launched in 1997, Green-e Energy is a certification program serving the voluntary renewable energy market in North America. Green-e Energy is a voluntary program for sellers of green power products, and certifies utility green pricing programs, competitive electricity products offered in

deregulated electricity markets, and renewable energy certificates (RECs). Participation in the program requires adherence with the program's standards—the *Green-e Energy National Standard* (National Standard) and *Green-e Energy Code of Conduct and Customer Disclosure Requirements* (Code of Conduct)—for renewable energy product quality and consumer protection. The *Green-e Energy National Standard*[1] was developed and is periodically revised through open stakeholder engagement processes, and substantive changes to the National Standard are approved by the Green-e Governance Board.

Q. Please describe your employment history with Center for Resource Solutions.

A. I was hired by CRS in 2005 as the Director of Certification and Verification Services. In 2008, I became Deputy Director, and in 2010 I became Executive Director of the organization.

Q. Please describe your duties and responsibilities as Executive Director.

A. As Executive Director, I am responsible for the overall management and strategic direction of the organization. I oversee the management of CRS's programs, including the Green-e Energy program.

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[1] Center for Resource Solutions, *Green-e Energy National Standard* http://www.green-e.org/getcert_re_stan.shtml (accessed June 5, 2013).

1 **Q. Please describe your qualifications.**

2 A. I have over 20 years of experience in the electric power and renewable
3 energy industries. I have worked for private sector and nonprofit
4 organizations addressing renewable energy, energy efficiency, distributed
5 generation, electricity markets, technology development, and electricity
6 sector and climate-change policy and regulation. I am a member of the
7 Western Renewable Energy Generation Information System (WREGIS)
8 Stakeholder Advisory Committee, a member of the State-Federal RPS
9 Collaborative Advisory Group, and I served as technical chairperson of the
10 WREGIS Operating Rules Committee. I earned my Bachelor of Arts
11 degree from Pomona College and a Master of Public Policy from Duke
12 University.

13

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

15 A. The purpose of my testimony is to evaluate the proposals before the
16 Commission with regards to double counting under the guidelines of the
17 Green-e Energy program.

18

19 **Q. To help explain double counting under your standard, could you first**
20 **explain the voluntary market in which your standard operates and its**
21 **interaction with the REST market?**

22 A. The compliance market refers to the purchase of renewable energy in
23 order to comply with a specific law or mandate. In the U.S., the

compliance market mostly comprises renewable electricity or REC purchases[2] made to meet Renewable Portfolio Standards (RPS) requirements that many states have implemented. Arizona's Renewable Energy Standard and Tariff (REST)[3] creates the compliance market in Arizona.

The voluntary market refers to purchases of renewable energy that are made above and beyond the minimum amounts that states require utilities or energy service providers to deliver or purchase on behalf of their retail load. Both residential and nonresidential electricity consumers can participate in the voluntary market by electing to purchase renewable energy offered through their utility's green power program, from an electricity service provider in a deregulated state that offers a green power option, or by purchasing RECs. A residential homeowner, for example, could sign up with their electricity provider to buy 100% renewable energy, instead of simply receiving the smaller amount of renewables they would get as part of the regular system mix. This additional renewable energy that was specifically purchased through the green pricing program is additional to the electric service provider's RPS obligations. Another example of the voluntary market is when a corporation or governmental organization purchases RECs to match with their grid electricity purchases in order to obtain green power points for new construction under the U.S.

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[2] *Throughout this testimony, renewable electricity refers to electrical energy and a REC delivered as a bundled product.*

[3] Ariz. Admin. Code, 14-2-1801 et seq.

Green Building Council's LEED program, meet renewable energy purchasing requirements from an Executive Order[4] in the case of federal agencies, or for carbon-accounting purposes in their sustainability report. In all of these cases, one of the values that the electricity user is receiving for their purchase is a unique claim to the ownership and use of the renewable energy attributes.

CRS's role in this market is to protect the renewable energy purchasers against double counting and false claims, and ensure the purchaser of renewable energy that they are receiving all of the attributes of renewable energy generation that they purchased.

Q. How much of the voluntary market do you certify?

A. According to the National Renewable Energy Laboratory and verification data obtained through annual Green-e Energy reporting, Green-e Energy certifies and verifies roughly two-thirds of the U.S. voluntary retail renewable energy market and more than ninety percent of U.S. voluntary retail renewable energy certificate (REC) sales.[5]

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[4] U.S. Department of Energy, Renewable Energy Requirement Guidance for EPACT 2005 and Executive Order 13423 (Jan. 28, 2008), http://www1.eere.energy.gov/femp/pdfs/epact05_fedrenewenergyguid.pdf.

[5] National Renewable Energy Laboratory, *Market Brief: Status of the Voluntary Renewable Energy Certificate Market (2011 Data)* available at http://www.nrel.gov/docs/fy12osti/56128.pdf at 5; and Center for Resource Solutions, *2011 Green-e Verification Report* http://www.green-e.org/publications.shtml at 4-6, (accessed June 5, 2013).

Q. Could you describe the voluntary market in Arizona?

A. In 2011, Green-e Energy verification found that Arizona had 2,986 residential customers and 146 non-residential customers purchase renewable energy in the voluntary market, and Arizona renewable generators generated 29,997 MWh that were sold into the voluntary REC market to customers inside and outside of the state.[6] There may be other voluntary purchasers in Arizona and renewable energy generation sold into the voluntary market from in-state generators that are not Green-e Energy certified. CRS does not independently collect information on renewable energy purchases and generation from non–Green-e Energy certified transactions.

Some examples of sellers in the voluntary market include Arizona Public Service Company, whose Green Choice Program is Green-e Energy certified. Also Salt River Project's EarthWise program is certified by Green-e Energy. According to the EPA's Green Power Partnership list, voluntary renewable energy market purchasers in Arizona include: Apollo Group, Inc., University of Phoenix, Arid Zone Trees, Arizona Lithographers, ConserVentures, Evolution Beauty Technologies, Inc., Forever Resorts/Big Bend Resorts, Chisos Mountain Lodge, Forever Resorts / Grand Canyon North Rim, LLC, International Student Exchange

[6] Center for Resource Solutions, data aggregated from Green-e Energy verification of 2011 certified sales.

Cards, Inc., and Prime Time Thermographics.[7] Tom Arma Studio, Inc. and Tom Arma Costumes, Inc. purchase Green-e Energy certified renewable energy certificates to offset 100 percent of the electricity used for its entire operations.[8] This is not an exclusive list, but is supplied for illustrative purposes.

Q. What criteria do you use to determine double counting?

A. The National Standard and other Green-e Energy governing documents set criteria for what constitutes double counting for the renewable electricity and REC sales that Green-e Energy certifies.[9] There are several sections of Green-e Energy governing documents that describe double counting and REC eligibility. One of the primary criteria of REC eligibility is that the RECs have not been double counted. The National Standard requires Green-e Energy certified renewable electricity and RECs to be additional to any renewable energy or RECs required by state or federal RPS requirements, legislation, or settlement agreements.[10] It states "RECs may NOT be used in a Green-e Energy certified product under the following circumstances: 1) The REC or the electricity from which the RECs are derived is being used simultaneously to meet a local, state, or federal energy mandate or other legal requirement" and, in

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[7] U.S. Environmental Protection Agency, *Green Power Partners List,* http://www.epa.gov/greenpower/partners/ (accessed June 5, 2013).
[8] Center for Resource Solutions, *Organizations Using Renewable Energy,* http://www.green-e.org/getcert_bus_participants.shtml, (accessed June 5, 2013).
[9] *Green-e Energy criteria regarding double counting apply to both renewable electricity and REC only transactions.*
[10] Center for Resource Solutions, *Green-e Energy National Standard* http://www.green-e.org/getcert_re_stan.shtml at 7-8 (accessed June 5, 2013).

Section E. Double Counting and Use of Utility Resources, "Renewable energy or RECs (or the renewable or environmental attributes incorporated in that REC) that can be legitimately claimed by another party may NOT be used in Green-e Energy certified REC products."[11]

The Code of Conduct describes double counting as "When the disaggregated attributes associated with a single MWh of generation are ultimately sold to or claimed by more than one consumer." The Code of Conduct specifically identifies that double counting would occur where the same REC is used by an electricity provider or utility to meet an environmental mandate, such as an RPS, and is also used to satisfy customer sales under Green-e Energy.[12] Green-e Energy Tracking System Attestations, which are signed by renewable energy generators participating in Green-e Energy and electronic tracking systems such as WREGIS, also require signatories to declare that the renewable attributes contained in the RECs have not been used to meet "any federal, state, or

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[11] Id., (*"1) When the same REC is sold by one party to more than one party, or any case where another party has a conflicting contract for the RECs or the renewable electricity; 2) When the same REC is claimed by more than one party, including any expressed or implied environmental claims made pursuant to electricity coming from a renewable energy resource, environmental labeling or disclosure requirements. This includes representing the energy from which RECs are derived as renewable in calculating another entity's product or portfolio resource mix for the purposes of marketing or disclosure; 3) When the same REC is used by an electricity provider or utility to meet an environmental mandate, such as an RPS, and is also used to satisfy customer sales under Green-e Energy; or 4) Use of one or more attributes of the renewable energy or REC by another party (see Section III.C. "Fully Aggregated Renewables" for details). This includes when a REC is simultaneously sold to represent „renewable electricity" to one party, and one or more Attributes associated with the same MWh of generation (such as CO2 reduction) are also sold, to another party.").*

[12] Center for Resource Solutions, *Green-e Energy Code of Conduct and Customer Disclosure Requirements* http://www.green-e.org/getcert_re_stan.shtml at 3-4 (accessed, May 30 2013). attached.

local renewable energy requirement, renewable energy procurement, renewable portfolio standard, or other renewable energy mandate by any entity other than the party on whose behalf the Renewable Attributes are retired."[13]

Green-e Energy's definitions of double counting are similar to other organizations that set standards or guidance for the voluntary market.

Q. What other organizations evaluate double counting in similar ways?

A. There are several other organizations and authorities whose interpretations of double counting are similar to Green-e Energy's. These include the U.S. Environmental Protection Agency, other certifications including the U.S. Green Building Council's LEED program, and WREGIS. The U.S. Federal Trade Commission also expressed concerns about double counting in its *Guides for the Use of Environmental Marketing Claims* (Green Guides), and similar language appears in the Arizona REST.

The U.S. Environmental Protection Agency has adopted rules for the Green Power Partnership program that are nearly identical to the rules for Green-e Energy, including definitions regarding double counting.[14] Page

[13] Center for Resource Solutions, *Tracking System Attestation,* http://www.green-e.org/verif_docs.html at 3 (accessed, May 30 2013).
[14] U.S. Environmental Protection Agency, *EPA's Green Power Partnership Requirements* http://www.epa.gov/greenpower/pubs/ at 3 and 8 (accessed, May 30 2013).

two and three of the of the Green Power Partnership programs partnership requirements, section IV, requires that eligible renewable electricity and RECs be incremental to mandatory requirements, such as state renewable portfolio standards, mandates placed on utilities, or load-serving entities or consent decrees.[15]

Other standards and certifiers, including the U.S. Green Building Council's LEED program, require that RECs and green power purchases be certified by Green-e Energy or an equivalent program in order to obtain credit for green power use. LEED requirements state:

> *Engage in at least a 2-year renewable energy contract to provide at least 35% of the building's electricity from renewable sources, as defined by the Center for Resource Solutions' Green-e Energy product certification requirements or an equivalent. All purchases of green power shall be based on the quantity of energy consumed, not the cost. If the green power is not Green-e Energy certified, equivalence must exist for both major Green-e Energy program criteria: 1) current green power performance standards, and 2) independent, third-party verification that those standards are being met by the green power supplier over time.* [16]

WREGIS is a renewable energy tracking system operated by the Western Electricity Coordinating Council. WREGIS tracks renewable energy generation from units that register in the system by using verified meter

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[15] *Id.* at 2-3.
[16] U.S. Green Building Council, *LEED Green power v. 2.9* http://www.usgbc.org/node/1731298 (accessed, May 30 2013).

data and creating RECs for this generation.[17] Many Western states, including California, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, and Washington allow or require RECs be tracked in WREGIS in order for the RECs to count for the state's Renewable Portfolio Standard.[18] WREGIS requires that RECs be fully aggregated, and that none of the attributes of renewable energy generation[19] are sold separately or claimed or transacted outside of the WREGIS certificates.[20] If any Arizona renewable generation owners, including renewable distributed generation (DG) owners, are tracking their RECs in WREGIS, the sale or claiming of their RECs or renewable attributes without supporting transactions of WREGIS certificates would be in violation of the

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[17] Western Electricity Coordination Council, *About WREGIS* http://www.wecc.biz/WREGIS/Pages/default.aspx (accessed, May 30 2013).

[18] Email from Andrea Coon, Dir. of WREGIS at Western Electricity Coordination Council to Alex Pennock, (May 29, 2013) (copy on file with recipient).

[19] (*Environmental attributes are widely accepted as the components of RECs.)* American Bar Association, et al., *Master Renewable Energy Certificate Purchase and Sale Agreement* (Version 1.0), at iv (2007). http://apps.americanbar.org/environ/committees/renewableenergy/RECMasterContract.pdf. ("*Environmental Attribute" means an aspect, claim, characteristic, or benefit associated with the generation of a quantity of electricity by a Renewable Energy Facility, other than the electric energy produced, and that is capable of being measured, verified, or calculated. An Environmental Attribute may include one or more of the following identified with a particular megawatt hour of generation by a Renewable Energy Facility designated prior to Delivery: the Renewable Energy Facility's use of a particular Renewable Energy Source, avoided NOx, SOx, CO_2 or greenhouse gas emissions, avoided water use (but not water rights or other rights or credits obtained pursuant to requirements of Applicable Law in order to site and develop the Renewable Energy Facility itself) or as otherwise defined under an Applicable Program, or as agreed by the Parties. Environmental Attributes do not include production tax credits or other direct third-party subsidies for generation of electricity by any specified Renewable Energy Facility.").*

[20] Western Electricity Coordinating Council, *WREGIS Operating Rules* (December 2010). http://www.wecc.biz/WREGIS/Documents/WREGIS%20Operating%20Rules%20v%205%2031%202012.pdf.(*"A WREGIS Certificate represents all Renewable and Environmental Attributes from one MWh of electricity generation from a renewable energy Generating Unit registered with WREGIS or a Certificate imported from a Compatible Registry and Tracking System and converted to a WREGIS Certificate.").*

WREGIS Terms of Use, which require all RECs tracked in the system to be fully bundled and not have attributes counted or claimed elsewhere.

The Federal Trade Commission (FTC) also identifies double counting of RECs as a problem. The FTC interprets the double use of a REC or any of its attributes to be misleading, stating specifically "If a marketer generates renewable electricity but sells renewable energy certificates for all of that electricity, it would be deceptive for the marketer to represent, directly or by implication, that it uses renewable energy."[21] Hence, not only is it deceptive to represent that one is using renewable energy when the REC has already been sold, but the implied used of RECs that are not owned is also deceptive. In order to be consistent with the FTC, Green-e Energy will not certify RECs that have been effectively claimed when they were used to reduce a utility's REST obligations.[22]

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[21] Federal Trade Commission, *Green Guides* 260.15 (d), 32-34, http://www.ftc.gov/opa/2012/10/greenguides.shtm (October 1, 2012).

[22] Federal Trade Commission, *Proposed Revisions to the Green Guides,* at 152 (October 2010). Available at: http://ftc.gov/os/fedreg/2010/october/101006greenguidesfrn.pdf. *("Once renewable electricity is introduced into the grid, it is physically indistinguishable from electricity generated from conventional sources. Consumers, therefore, cannot determine for themselves the source of the electricity flowing into their homes. Because electricity transactions can be tracked, however, retail customers can "buy" renewable power by either: (1) purchasing renewable energy certificates (RECs); or (2) purchasing renewable power through contracts with their utility."... "Under the REC method, a renewable electricity generator splits its output into two components: (1) the electricity itself; and (2) certificates representing the renewable attributes of that electricity. Specifically, generators that produce renewable electricity sell their electricity at market prices for conventionally produced power and then sell the renewable attributes of that electricity through separate certificates. Organizations purchase RECs to characterize all or a portion of their electricity usage as "renewable" by matching the certificates with the conventionally produced electricity they normally purchase.").*

The REST also contains language that disallows the use of renewable attributes for REST compliance that have not been retained by the affected utility: "If an Affected Utility trades or sells environmental pollution reduction credits or any other environmental attributes associated with kWh produced by an Eligible Renewable Energy Resource, the Affected Utility may not apply Renewable Energy Credits derived from that same kWh to satisfy the requirements of these rules."[23]

Q. Do you think that Staff's proposal of Track and Monitor could result in double counting?

A. Yes, the problem of double counting could arise. Staff's Track and Monitor proposal does more than track and monitor the kWh produced by eligible resources. It uses these kWh to reduce the REST requirements. This use of kWh data effectively results in a claim on the renewable energy value that would otherwise be included in the REC, taking value from the contractual REC owner and nullifying the REC owner's ability to make their own claim or sell the REC. The utility would be counting renewable energy that it does not own and from which RECs were not obtained for compliance with its REST obligations. This would result in a claim on the REC such that Green-e Energy would not be able to certify or verify the sale of the RECs to other purchasers.

[23] Ariz. Admin. Code, 14-2-1804(A), (E), 1812(B)(5).

Any proposal intended to give utilities credit for RECs or renewable energy generation constitutes a claim on the REC. Such credit may be in the form of a waiver of compliance obligation and does not need to be a formal counting of the REC itself. If the underlying kWh is being used to reach or modify a compliance obligation, then the value of the REC is being taken by the utility, and according to Green-e Energy rules, any other use of the REC would constitute double counting. Implementation of Track and Monitor would mean that any other use of the REC (other than for compliance) would constitute double counting. The same problem arises from the prior Track and Record proposal wherein a utility does not purchase RECs, as there is no cash incentive for distributed projects, however the utility would count the RECs associated with new distributed energy projects and report the volume of RECs to the Commission to demonstrate compliance with the Renewable Energy Standard.

Q. Do you think RUCO's modification of Staff's proposal, as represented in the surrebuttal testimony of Lon Huber May 22, 2013, creating a baseline of grid connected kW of DE and using this baseline to determine when utilities would be granted a temporary waiver of the DE portion of the REST, could result in double counting?

A. As written, where the baseline is determined by capacity opposed to kWh, and it is clear that the REST is waived, rather than met, this proposal does

not raise issues of double counting. The critical factor in this evaluation is that the proposal disconnects kWh generated from determination of REST compliance.

As many of the details of this plan have not yet been solidified, but would be worked out at a later time by the Commission and the parties, implementation of this plan could yield different determinations. For example, if the utilities are claiming to meet their REST obligations by counting kWh from which they do not own the corresponding RECs, then double counting could occur.

Q. Do you think a waiver of the DE requirement could result in double counting?

A. If the waiver grants utilities the ability to not comply with a portion of the REST, then there would be little risk of double counting. Issues arise if the utilities are considered to be complying with the REST by counting RECs or the underlying renewable kWh that the utilities do not own, to meet their REST obligations.

Q. Are there circumstances when a waiver of the REST could result in double counting?

A. The design of the waiver is important in determining whether or not double counting could arise. If the waiver, now or in the future, results in a

determination of REST compliance by counting a REC and/or renewable kWh not owned by the utility then there would be a risk of double counting.

Q. Would establishing an auction mechanism create a risk of double counting?

A. No. Establishing an auction mechanism wherein the generator retained the full value of the REC and had the option to sell that REC to the utility would not risk double counting.

Q. Does this conclude your testimony?

A. Yes, it does.