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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

AUG 27 2013

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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

INITIAL CLOSING BRIEF

1 Wal-Mart Stores, Inc. and Sam's West, Inc. (collectively "Walmart"), hereby file
2 this Initial Closing Brief in this matter.

3 This proceeding concerns the method utilities will use to demonstrate compliance
4 with the Distributed Energy Requirement ("DE Requirement") of the Renewable Energy
5 Standard ("RES") Rules when the utilities no longer pay incentives to acquire renewable
6 energy credits ("RECs") from customers who install distributed renewable generation.
7 Walmart urges the Commission to resolve the matter in a way that continues to ensure
8 that owners of eligible renewable systems continue to own RECs created by their system.

9 As of January 2013, Walmart had 112 facilities and over 31,000 associates in
10 Arizona. Exhibit ("Exh.") Walmart-1 at 3. Additionally, as of the fiscal year ending
11 2013, Walmart spent over \$681 million for merchandise and services with Arizona
12 suppliers, supporting 26,232 Arizona jobs. Exh. Walmart-1 at 4.

13 Walmart has made an operational commitment to environmental stewardship in
14 many aspects of its business, including the installation and use of renewable energy and
15 energy efficiency technologies. Currently, Walmart has 22 operating solar installations in
16 Arizona. Exh. Walmart-1 at 4. In 2012, Walmart solar facilities in Arizona generated
17 approximately 62 million kWh of renewable energy. Exh. Walmart-1 at 4.

18 All the parties agree that customers who install distributed renewable resources
19 without receiving a financial incentive from a utility should be permitted to retain the
20 value of the RECs derived from their renewable system. Tr. at 130-131 (Bernosky/APS);
21 at 236 (Tilghman/TEP/UNS); at 289 (Gilliam/Vote Solar); at 349 (Cullen Hitt/SEIA); at
22 374 (Baker/Walmart); at 392-393 (Cordova/DOD); at 533 (Fellman/NRG); at 482
23 (Berry/WRA); at 608 (Huber/RUCO); at 694-95 (Gray/Staff).

24 The Commission should reject proposals that will discourage customers from
25 installing distributed renewable generation. Proposals made that would require customers
26 who install distributed renewable generation to be forced to surrender their RECs to the

1 utility as a condition of interconnection without compensation would unjustly enrich the
2 utilities and have a particularly negative impact on a customers' incentive to install
3 renewable resources.

4 Walmart encourages the Commission to resolve the matter in a way that insures
5 customers or system owners will retain the RECs associated with the generation they
6 install. Walmart also encourages the Commission to allow the utilities to use the output
7 of distributed generation systems, for informational purposes. Walmart does not believe
8 that such action would constitute a "use" of the REC for more than one purpose.

9 **ELIMINATING THE DE REQUIREMENT ALTOGETHER WOULD MAKE IT**
10 **DIFFICULT FOR THE COMMISSION TO REACT TO CHANGES IN**
11 **CIRCUMSTANCES**

12 APS has proposed removing the DE Requirement permanently. Exh. APS-1 at 6.
13 However, it is premature to conclude that the market for distributed energy is now self-
14 sustaining. Exh. SEIA-1 at 9. There may come a time when the DE Requirement is again
15 necessary to ensure adequate levels of installation of distributed renewable resources.
16 Exh. Walmart-1 at 9. Permanently eliminating the DE Requirement could chill DE
17 development if market conditions change (as they very likely may when the Commission
18 acts on APS's application regarding net metering, Docket No. E-01345A-13-0248). See
19 Exh. SEIA-1 at 9; Exh. Vote Solar-1 at 12. The Commission should maintain the DE
20 Requirement, in the event market conditions change in such a way that the Commission
21 desires to require utilities to comply with the DE Requirement.

22 **ANNUAL WAIVERS OF THE DE REQUIREMENT ADDRESS THE ISSUE AND**
23 **PRESERVES REC INTEGRITY, IF DONE APPROPRIATELY.**

24 Several parties have proposed that the Commission waive the DE
25 Requirement on a year-by-year basis. The basis by which the Commission evaluates
26 whether to waive the DE Requirement for the forthcoming year is important. The

1 Commission must be careful to craft any waiver so as to avoid destroying the integrity of
2 the RECs that customers continue to own. If incentives are no longer going to be
3 provided to customers, Walmart supports the Commission's use of an annual waiver, as
4 long as that waiver does not undermine the ability of a customer to claim that they are
5 using renewable generation when the renewable source is metered on the customers own
6 property and the renewable energy is used by the facility where the system is located.

7 Waivers of the DE Requirement are not based on kWh production, such year-by-
8 year waivers do not result in the "use" of a REC. Exh. Walmart-2 at 4 and at Exh. B pg.
9 2. Utilities reporting to the Commission of the kWhs generated by distributed resources
10 interconnected to their distribution systems would not be a "use" of the RECs if they are
11 merely reported, and not counted toward satisfaction of a government mandate. Exh.
12 Walmart-2 at 4-5. A waiver of the DE Requirement, if not dependent on renewable kWh
13 production from distributed renewable systems, would not result in a use of the REC. *Id.*
14 Thus, the customers/system owners of the distributed systems could continue to make
15 claims that they are using renewable energy derived from renewable systems located on
16 their property.

17 Staff has recommended a "Track & Monitor" method by which a utility would
18 receive a waiver of the DE requirement of one REC for one kWh of renewable energy
19 produced in its service territory. Exh. S-1at 7. Staff's intention is to maintain a "direct
20 linkage" between actual kWh production in a utility's service territory and the utility's
21 compliance with (or waiver from) the RES requirements, where the "numbers add up" to
22 the actual kWh requirement set forth in the RES Rules. Tr. at 692.

23 Unfortunately, the Track & Monitor approach may have unintended consequences
24 to the owners of DE systems, in that it could be perceived as a "use" of the RECs from
25 customers' systems. Thus, the customers that actually own the RECs may not be able to
26 use the RECs from their systems to satisfy their own internal renewable goals. The

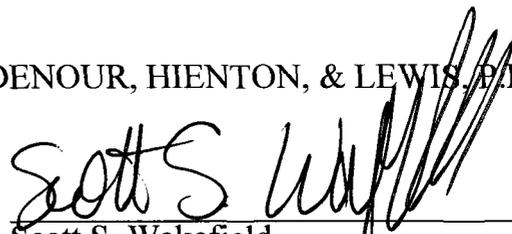
1 Commission should reject such a proposal.

2 **CONCLUSION**

3 The Commission should address the matter at hand without undermining the
4 ability of customers who are interconnected on their side of the meter and use the energy
5 from a renewable system located on their property, from claiming they are using
6 renewable power to operate the facility. An annual waiver of the DE Requirement can
7 both provide the utilities the relief they seek, and maintain the integrity of RECs owned
8 by customers who have installed distributed energy systems. However, the Commission
9 should not base such waivers on the actual kWh's of energy produced in a utility's service
10 territory, as such a direct linkage between kWh's produced and a waiver from the DE
11 Requirement could result in a perceived "use" of the REC, and leave customers with
12 RECs that they may not be allowed to claim in the market.

13 Dated this ___ day of August, 2013.

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

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