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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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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

CLOSING BRIEF

Kevin Koch hereby files his closing brief in the above captioned matter. This brief will respond to the opening briefs of the other parties filed in this docket on Aug 27, 2013.

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1 **INTRODUCTION**

2 In Decision No. 73636, the Arizona Corporation Commission (“ACC” or
3 “Commission”) directed the “Hearing Division to schedule a procedural conference, entertain
4 requests for intervention, hold a hearing, and prepare a Recommended Opinion and Order
5 (“ROO”) for Commission consideration on the “Track and Record” proposal and potential
6 alternatives. The ROO should evaluate whether adoption of the “Track and Record” proposal
7 (or alternatives thereto) would require modification of the REST rules.”¹ Contrary to what
8 other parties may have said in their opening briefs, the Commission was very specific in what
9 these proceedings would accomplish and the manner in which it would be accomplished.
10 Based upon the Commission’s explicit instructions and the evidence in this docket, Mr. Koch
11 respectfully urges the adoption of Staff’s proposal of “Track and Monitor.”

12 **TRACK AND MONITOR**

13 As Staff and others, including APS, said in their opening briefs, the five policy goals set
14 out by Staff Witness, Robert Gray, were:
15

- 16 1) Provide a clear and easily documented way for utilities to achieve
17 compliance under the REST rules;
- 18 2) Recognize reality regarding how much electric load is actually being met
19 with renewable energy;
- 20 3) Minimize the cost to ratepayers;
- 21 4) Maximize value to the extent possible for those who undertake DE
22 installations and Arizona as a whole; and
23
- 24

25 ¹ Decision No. 73636 at 6, 8-12.

26 ² Gray Direct Testimony Ex S-1 at 6.

1 5) Be minimally invasive to the REST rules.²

2 Staff's proposal of "Track and Monitor" achieves all of the policy goals set out by Staff in the
3 most efficient manner possible and is in the public interest.

4 The "Track and Monitor" proposal reduces the REST requirement on a kWh per kWh
5 basis for all DE that is produced where no Renewable Energy Credit ("REC") transfer takes
6 place between the utility and the customer. Other parties have gone into great detail as to why
7 the "Track and Monitor" proposal addresses all of the policy goals set forth by Staff in this
8 proceeding. Mr. Koch agrees with those assertions, especially those in Staff's opening brief.
9 Mr. Koch also supports Staff's policy goals and would suggest that this is the only proposal
10 that addresses those goals.

11 **DOUBLE COUNTING**

12 The most discussed issue in this proceeding has been the double counting of RECs. In
13 fact, RUCO sponsored a witness that only discussed the issue of double counting³ and put forth
14 proposals to address their concerns regarding double counting.⁴ Staff continues to assert that
15 "Track and Monitor" does not constitute double counting.⁵ Mr. Koch agrees with Staff.
16 Additionally as discussed by the RUCO witness from CRS, Ms. Martin, it will be impossible to
17 ascertain if double counting occurs until a final decision is issued by this Commission.⁶ Ms.
18 Martin's testimony helps the Commission determine how REC counting occurs. She states
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² Gray Direct Testimony Ex S-1 at 6.

22 ³ Tr at 805- 890

23 ⁴ Tr at 582, 16-22

24 ⁵ Staff Opening Brief page 8, lines 16-18

25 ⁶ Tr at 882, 6-9.

1 “[f]ortunately it is pretty universally accepted that renewable energy certificates need to be
2 surrendered to meet these types of policies. So by tracking REC ownership we are able to
3 determine whether or not renewable energy has been counted.”⁷ A key test for REC integrity is
4 the ability to make claims for renewable energy. If the commission makes clear that such
5 claims lie with the owner of the RECs, this should also help to support a CRS assessment that
6 AZ RECs are intact. If, upon adoption of the “Track and Monitor” proposal, the Commission
7 adds in very clear and precise language that the customer retains the REC, Ms. Martin’s, and
8 RUCO’s, concerns should be addressed and Staff Goal No. 4 is maintained

9 Staff does go on in its opening brief to suggest a waiver to the DE portion of the REST
10 rules would be appropriate if the Commission believes “Track and Monitor” causes double
11 counting. Mr. Koch is not supportive of this request for several reasons. As stated above, Mr.
12 Koch does not believe “Track and Monitor” constitutes double counting. Additionally,
13 granting a blanket waiver is akin to changing the REST rules. As will be discussed in further
14 detail below, this does not address the issue before the Commission and is not in conformance
15 with Staff’s policy goals.

16 **POLICY GOAL # 5**

17 Staff policy goal #5, which states “be minimally invasive to the REST rules,” is a very
18 important goal for Mr. Koch. It is imperative to go one step further and say that the REST
19 rules should not be opened. Staff’s recommendation of changing the REST rules once it sees if
20 “Track and Monitor” is working is not needed.⁸ If “Track and Monitor” is adopted now,
21 presumably each DE system in a Utility’s service territory which retains it’s RECs will
22 constitute a partial-waiver of the affected utility’s DE requirement and the Commission will be
23

24 ⁷ Tr at 827, 1-6.

25 ⁸ Staff Opening Brief pg 10.

1 giving direction to the affected utilities to that point. As such, the practice of placing DE
2 systems into the “Track and Monitor” program creates a permanent solution that does not
3 require future Commission action.
4

5
6 **ELIMINATION OF DE REQUIREMENT**

7 Tucson Electric Power’s (“TEP”) insistence on removing the DE carve-out from the
8 REST rules is off base. Staff doesn’t support the elimination of the carve out, concluding it
9 goes further than Staff is comfortable and “believes this would be a de facto change, in this
10 case an increase.”⁹ Additionally, based upon Mr. Gray’s testimony that some utilities are below
11 compliance levels¹⁰, removing the DE carve out would only reward those entities that did not
12 comply with ACC rules. The DE carve out was placed in the REST rules for very specific
13 reasons. Looking at the order that adopted those rules highlights exactly what those reasons
14 are. Then-Commissioner Mundell wrote a letter that discussed an emphasis on distributed
15 generation because it “will promote reliability by focusing on conservation and reduction of
16 peak load, thereby lessening peak demand . . . and relieving stress on the grid.”¹¹ Then-
17 Commissioner Spitzer filed a letter that stated that “distributed generation within major load
18 pockets adds to system reliability and is the heart of Arizona’s solar market.”¹² He went on
19 further to say that “distributed generation . . . on Arizona rooftops have little chance under the
20

21 _____
22 ⁹ TR. 691 10-1

23 ¹⁰ TR XXXXX

24 ¹¹ Decision No. 69127 pg 12 lines 3-11.

25 ¹² Id at 33 lines10-12.
26

1 current EPS.”¹³ Further Finding of Fact 234 states that “it is just, reasonable, proper and
2 necessary to require the Affected Utilities to include the minimum amount of renewable
3 resources in their energy portfolios . . . in order to . . . promote and safeguard the security,
4 convenience, health and safety of Affected Utilities’ customers.”¹⁴ The words of the
5 commissioners at the time and the finding of fact still hold true today. TEP’s continued
6 insistence on removal of the DE carve out seems to strike at some of the very reasons
7 articulated by then Commissioner Spitzer mentioned above.

8 While TEP makes the claim that utility scale is less expensive than DE, the only citation
9 given is one reference by their own witness that broadly makes that claim.¹⁵ Clearly, Staff does
10 not believe this to be true. Staff states, in its opening brief, that elimination of the carve out
11 would cause increased REST costs because more utility scale solar generation would result
12 from that action.¹⁶ Other than an off hand comment about “some” projects in TEP’s service
13 area, there is no evidence in this record that supports TEP’s assertions. In fact, as found in
14 Staff’s brief, eliminating the DE carve out would violate 2 of Staff’s policy goals: 3) minimize
15 cost to ratepayers and 5) be minimally invasive to the rules.

16 There is one other point that must be addressed on this topic. TEP makes the statement
17 that “should there be any lag, incentives could be brought back through approval of the utilities
18 annual implementation plan.”¹⁷ Absent the carve-out, reinstatement of an incentive could be
19

20 ¹³ Id at 18—22.

21 ¹⁴ Id at page 55 lines 17-20.

22 ¹⁵ “On average in our service territory [DE] does cost approximately \$3.50 a watt. Some commercial installations
23 can be as low as \$3 a watt.” Tr at 264-65 24-1.

24 ¹⁶ Staff opening brief pg 12 lns 6-10.

25 ¹⁷ TEP Opening brief pg 29 ln10-11
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difficult since there would be no guide or mandate to go by. If the DE carve out is removed from the REST rules, we will be back in the same situation that Commissioner Spitzer discussed in the REST rules docket. The utilities will not, on their own volition, decide to incent DE. The EPS rules, a predecessor to the current rules, proved that as discussed above. Removal of the DE carve-out will only set this industry back 7 years.

CONCLUSION

For all the reasons discussed above, the Commission should adopt Staff's "Track and Monitor" proposal to address REST compliance in the absence of incentives.

RESPECTFULLY SUBMITTED this 13th day of September, 2013.

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