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OPEN MEETING AGENDA ITEM

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

2 COMMISSIONERS

3 BOB STUMP- Chairman  
4 GARY PIERCE  
5 BRENDA BURNS  
6 BOB BURNS  
7 SUSAN BITTER SMITH

2013 OCT -4 P 2:50

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
DOCKETED

OCT 04 2013

DOCKETED BY

6 IN THE MATTER OF THE APPLICATION OF  
7 ARIZONA PUBLIC SERVICE COMPANY FOR  
8 APPROVAL OF NET METERING COST SHIFT  
9 SOLUTION.

DOCKET NO. E-01345A-13-0248

PROCEDURAL ORDER  
(Granting Intervention)

9 **BY THE COMMISSION:**

10 On July 12, 2013, Arizona Public Service Company ("APS") filed with the Arizona  
11 Corporation Commission an application for approval of Net Metering Cost Shift Solution.

12 Numerous public comments have been filed.

13 Intervention has been granted to Lewis M. Levenson, Arizona Solar Deployment Alliance,  
14 Arizona Competitive Power Alliance, Patty Ihle, Tucson Electric Power and UNS Electric, Inc., the  
15 Residential Utility Consumer Office, The Alliance for Solar Choice ("TASC"), Solar Energy  
16 Industries Association ("SEIA"), Western Resource Advocates, and the Interstate Renewable Energy  
17 Council, Inc. ("IREC")

18 On August 20, 2013, SEIA filed a Protest and Motion to Dismiss, asserting that the relief  
19 requested in the application implicates improper ratemaking that violates the approved settlement of  
20 APS's last rate case (Decision No. 73183 (May 24, 2012)); represents unconstitutional single-issue  
21 ratemaking, citing to *Scates v. Arizona Corp. Comm'n*, 118 Ariz. 531, 578 P.2d 612 (Ariz. App.  
22 1978); and lacks legal and regulatory authority. SEIA requests that the Commission reject the  
23 application and order APS to comply with Decision No. 73183 and the settlement agreement  
24 approved therein, and require APS to address the issues discussed in the application, if at all, only in  
25 the filing of APS's next general rate case, after May 31, 2015.

26 On August 21, 2013, Commissioner Bitter Smith filed a letter in the docket requesting that the  
27 parties file all data requests and responses in this docket. Subsequently the parties have made several  
28 such filings.

1 On August 29, 2013, IREC filed a Protest. IREC states that it supports SEIA's Protest,  
2 recommends that the Commission reject APS's application, and recommends that the Commission  
3 defer discussion of the proposals in APS's application to a future general rate case. IREC suggests  
4 that at that time, the Commission rely on a neutral third party to model the benefits and costs of net  
5 metering in Arizona, based on a common set of assumptions and inputs developed by the  
6 Commission and stakeholders.

7 On August 30, 2013, TASC joined in SEIA's Motion to Dismiss.

8 On September 9, 2013, APS filed a Response to SEIA's Motion to Dismiss, stating that the  
9 motion should be treated as a Protest that asserts policy disagreements, and not as a motion to  
10 dismiss.

11 On September 16, 2013, SEIA filed a Reply to APS's Response, reasserting that APS's  
12 application should be dismissed, and that the issues raised in the application should be addressed  
13 only in the filing of APS's next general rate case, after May 31, 2015.

14 On September 23, 2013, TASC docketed a Notice of Filing Documents of Interest, to which  
15 was attached a petition to maintain net metering. The filing states the petition is signed by 19,559  
16 Arizona residents.

17 On September 26 and 27, 2013, Arizona Solar Energy Industries Association ("AriSEIA"), a  
18 nonprofit trade association, filed an Application to Intervene ("Motion"). AriSEIA filed, as an  
19 attachment to the Motion, a copy of a September 10, 2013, resolution of its Board of Directors  
20 authorizing the Chairman of the organization, Mark Holohan, to act on its behalf. The Motion  
21 requests that all pleadings, correspondence, discovery, and other documents be served on Mr.  
22 Holohan at the address of AriSEIA.

23 Pursuant to Arizona Supreme Court Rule 31(d)(28), a non-profit organization may be  
24 represented before the Commission by a corporate officer, employee, or a member who is not an  
25 active member of the state bar, if (1) the non-profit organization has specifically authorized the  
26 officer, employee, or member to represent it in the particular matter; (2) such representation is not the  
27 person's primary duty to the non-profit organization, but is secondary or incidental to such person's  
28 duties relating to the management or operation of the non-profit organization; and (3) the person is

1 not receiving separate or additional compensation (other than reimbursement for costs) for such  
2 representation. Arizona Supreme Court Rule 31(d)(28) further states that the Commission or  
3 presiding officer may require counsel in lieu of lay representation whenever it is determined that lay  
4 representation is interfering with the orderly progress of the proceeding, imposing undue burdens on  
5 the other parties, or causing harm to the parties represented.

6 No objections have been filed to AriSEIA's Motion and accordingly, AriSEIA should be  
7 granted intervention. Further, Mr. Holohan should be authorized to represent AriSEIA in this  
8 proceeding.

9 IT IS THEREFORE ORDERED that Arizona Solar Energy Industries Association is hereby  
10 granted intervention.

11 IT IS FURTHER ORDERED that Mark Holohan is hereby authorized to represent Arizona  
12 Solar Energy Industries Association in this proceeding, pursuant to Arizona Supreme Court Rule  
13 31(d)(28).

14 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
15 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona  
16 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at  
17 all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
18 scheduled for discussion, unless the representative has previously been granted permission to  
19 withdraw by the Administrative Law Judge.

20 IT IS FURTHER ORDERED that pursuant to Arizona Supreme Court Rule 31(d)(28), the  
21 Commission or presiding officer may require counsel in lieu of lay representation if it is determined  
22 that lay representation is interfering with the orderly progress of the proceeding, imposing undue  
23 burdens on the other parties, or causing harm to the parties represented.

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1 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive  
2 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

3 DATED this 4<sup>th</sup> day of October, 2013.

4  
5   
6 TEENA JIBILIAN  
ADMINISTRATIVE LAW JUDGE

7 Copies of the foregoing mailed/delivered  
8 this 4<sup>th</sup> day of October, 2013 to:

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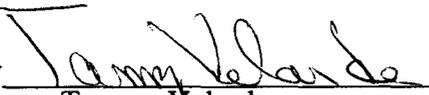
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