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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONER

18 **IN THE MATTER OF THE**
19 **APPLICATION OF ARIZONA**
20 **PUBLIC SERVICE COMPANY FOR**
21 **APPROVAL OF NET METERING**
22 **COST SHIFT SOLUTION**

DOCKET NO. E-01345A-13-0248
SEIA'S RESPONSE TO STAFF'S
MEMORANDUM

23 The Solar Energy Industries Association¹ ("SEIA") hereby responds to the
24 Memorandum of the Utilities Division ("Staff") issued to the Arizona Corporation
25 Commission ("Commission") on September 30, 2013 ("Memorandum"), as filed in this
26 Docket No. E-01345A-13-0248 (the "Docket"). The Memorandum's recommended

27 ¹ The comments contained in this filing represent the position of SEIA as an organization, but not
28 necessarily the views of any particular member with respect to any issue.

1 outcome is both clear and entirely appropriate based on the record before the
2 Commission: “Staff recommends that no changes be made at this time, but instead, this
3 issue be evaluated during APS’s next rate case.”² For the reasons set forth in SEIA’s
4 Protest and Motion to dismiss, filed August 20, 2013 (“SEIA Motion”), in SEIA’s Reply
5 to APS’s Response, filed September 16, 2013 (“SEIA Reply”), and in this filing, SEIA
6 agrees with Staff that deferral of a final determination of these issues to APS’s next
7 general rate case is the appropriate (and, SEIA has argued, legally required) outcome of
8 this proceeding. Furthermore, SEIA rejects the suggestion by APS, Staff and others that
9 a remedy for NEM is needed at this time or can be lawfully fashioned and implemented
10 outside a rate case. Such a rate case would allow the Commission to develop a proper
11 evidentiary record, examine witnesses, and otherwise comply with legal due process for
12 changing rates.

13
14 **I. THE COSTS AND BENEFITS OF NEM ARE APPROPRIATELY**
15 **EVALUATED AND ADDRESSED ONLY IN A GENERAL RATE CASE**

16 As the Memorandum clearly states, “any cost-shift issue created by NM is
17 fundamentally a matter of rate design. The appropriate time for designing rates that
18 equitably allocate the costs and benefits of NM is during APS’s next general rate case.”
19 SEIA agrees, and has previously noted that the crux of APS’s Application is directed
20 (inappropriately, in this venue) to APS’s perceived need to revise its rate structure with
21 respect to its residential customers.³ Such revisions should only be accomplished in
22 APS’s next general rate case when, in the words of Staff, “[d]ata on all of APS’s costs
23 [will be] available”⁴ and “the Commission has more options available”⁵ to it.

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25 ² Memorandum at 10.

26 ³ SEIA Protest at 5, l: 14-17 (“Mr. Miessner’s testimony reveals the actual basis for APS’s filing in this
27 docket: APS believes, as a general matter, that its infrastructure cost recovery mechanism applicable to
28 residential customers is flawed. SEIA rejects this assertion as in any way relevant to NEM.”) (citation
omitted).

⁴ Memorandum at 10.

⁵ *Id.*

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2 **II. STAFF MAKES CLEAR THAT APS'S PROPOSED "SOLUTIONS"**
3 **ARE NON-STARTERS**

4 In any event, the Memorandum unambiguously rejects the two "solutions" that
5 APS asks the Commission choose from in its Application. Staff finds that both the "Net
6 Metering Option" and the "Bill Credit Option" are "not revenue neutral."⁶ Staff further
7 finds that "APS has not proposed a method by which all additional revenue [collected
8 under the Net Metering Option] would be returned to non-DG ratepayers"⁷ and, with
9 respect to the Bill Credit Option, "APS again offers no guidance on how additional
10 revenues produced under this Option would be returned to non-DG ratepayers."⁸

11 SEIA came to similar determinations.⁹ SEIA also agrees with Staff's
12 determinations that (1) the Net Metering Option's requirement that new NEM customers
13 take service under the ECT-2 rate schedule "removes a basic choice from the customer –
14 the choice of the rate schedule that works best for their usage pattern and lifestyle,"¹⁰ and
15 (2) the Bill Credit Option "denies the residential customer the right to offset energy
16 purchases from the utility with self-generation on a one-to-one basis."¹¹ This APS-
17 recommended denial of customer choice and rights is fundamentally unfair, and the
18 Commission should not accept any version of either of APS's proposed "solutions."
19

20 **III. STAFF'S ALTERNATIVE RECOMMENDATIONS ARE**
21 **FUNDAMENTALLY INCONSISTENT WITH ITS RATE CASE**
22 **RECOMMENDATION**

23 Staff correctly observes that "integral to this discussion of DG is the question of
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25 ⁶ *Id.* at 7.

26 ⁷ *Id.*

26 ⁸ *Id.*

27 ⁹ SEIA Motion at 6 ("No portion of APS's Application, however, explicitly proposes to use the additional
revenue generated by the two options to lower non-NEM customers' rates.").

27 ¹⁰ Memorandum at 7.

28 ¹¹ *Id.*

1 what *value* DG offers to APS's electrical system and thereby to the customers served by
2 that system."¹² SEIA notes that the determination of DG's value to APS's electrical
3 system is, at best, contested.¹³ Staff goes on to find that "[o]nce the costs and benefits of
4 DG have been adequately quantified and valued, the allocation of these costs and benefits
5 equitably among customers is a matter of rate design."¹⁴ This assessment of costs and
6 benefits simply has not taken place to the degree required for rate design-quality results
7 to be produced and adequately tested. Such rate case-quality information is a prerequisite
8 to allocating such costs and benefits, which can only be accomplished via "rate design",
9 i.e., can only properly be done in APS's next general rate case.

10 Despite these clear (and clearly correct) findings, Staff goes on (seemingly
11 reluctantly) to propose two adjustments to the LFCR mechanism as possible "bridge
12 solutions," instead of appropriately deferring any such "solution" to occur only upon a
13 final, tested determination in APS's next rate case of the costs and benefits of NEM, as
14 Staff indicates is its preferred outcome. As drafted, Staff's LFCR modification
15 proposals, although undoubtedly well-intentioned, are significantly flawed. As an initial
16 matter, both are based on the entirely unproven *assumption* that solar NEM customers
17 impose costs on non-solar customers. This assumption has certainly not been proven by
18 APS (which bears the burden of proof in rate change proposals) and – for the reasons
19 noted by Staff, by SEIA, and by other parties – cannot be adequately demonstrated
20 outside a rate case. It would be unjustifiable for the Commission to act on the limited
21 information currently available to it, or to attempt a half-measure to re-design rates
22 outside APS's next general rate case, and for these reasons deferral of final resolution of
23 NEM issues to APS's next general rate case is entirely appropriate.

24 Staff's Recommended Alternative #2 has an even more fundamental, and entirely
25 fatal, flaw. Recommended Alternative #2 is based on a rationale Staff borrows from APS

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27 ¹² *Id.* at 5 (emphasis original).

28 ¹³ *See, e.g.*, SEIA Motion Section IV(D) at 22-24 (discussing the SAIC Report and the Crossborder Energy Study and their divergent results).

¹⁴ *Id.* at 6 (emphasis added).

1 “of replicat[ing] that value [of 22 to 24 cents per kWh for DG solar, as was found in the
2 Crossborder Energy Study] by interconnecting small 1 to 5 MW PV systems at the
3 subtransmission level throughout its distribution system utilizing wholesale purchase
4 power agreements.”¹⁵ This fundamentally misapprehends the purpose of net metering.
5 Net metering is not about the utility’s acquisition costs; net metering is about the right of
6 an electricity consumer to install and operate equipment that is, as described in the
7 Commission’s regulations, “intended primarily to provide part or all of the Net Metering
8 Customer’s requirements for electricity.”¹⁶

9 Net metering is the Commission’s clear statement of the right of a utility’s
10 customers to self-generate the electricity they use and lower their energy bills in direct
11 and one-for-one correlation. Staff notes as much when, in critiquing APS’s Bill Credit
12 Option, they find that it “is not equivalent to a NM arrangement because it denies the
13 residential customer the right to offset energy purchases from the utility with self-
14 generation on a one-to-one basis. Staff believes that residential customers should have the
15 ability to receive such an offset.”¹⁷ SEIA agrees, and is puzzled why Staff has produced
16 in Recommended Alternative #2 a methodology that prevents exactly the one-to-one self-
17 generation offset that Staff supports.

18 Recommended Alternative #2 charges a customer not only for energy generated
19 by a solar system that the customer has already paid to have installed that is then exported
20 to the grid but also for energy that is generated and consumed at home that never touches
21 the grid. This is in direct contradiction of Staff’s position in favor of a one-to-one offset
22 of self-generation for home use. There is no discernable difference between charging a
23 customer for producing and consuming his own electricity that never touches the grid and
24 charging that same customer for turning out his lights. Both types of charges must be
25 rejected for denying the right to a one-to-one offset for reduced energy usage.

27 ¹⁵ Memorandum at 13.

28 ¹⁶ A.C.C. R14-2-2302(13)(b).

¹⁷ Memorandum at 7 (emphasis added).

1 An additional flaw of Recommended Alternative #2 is its choice of a generic
2 “other solar” PPA price as an appropriate comparison for the benefits produced by net
3 metered, residential solar systems. Net metered systems, as one of their many benefits,
4 generate energy that is positively correlated with the grid’s peak power needs. The
5 appropriate comparison is thus the marginal cost to the utility of power at the utility’s
6 peak need. This error points again to the fundamental flaw of proceeding with Staff’s –
7 or RUCO’s, or APS’s, or any other party’s – LFCR-based or any other “solutions”
8 proposed thus far in this Docket. Such “solutions” are doomed to failure because the
9 alleged “problem” of cross-subsidization of net metered customers has not been
10 established, and even assuming it exists (which SEIA denies) its scope has not been
11 properly determined as part of a rate case so precisely what should be done about it, by
12 comparison to what metrics, at what rates, etc., has not been determined.

13 Finally, the Commission should consider that net metering is directly responsive
14 to Arizona law, including “the public policy of this state that a competitive market shall
15 exist in the sale of electric generation service.”¹⁸ Net metering helps to ensure such a
16 competitive market by providing customers an alternative to captive purchases from a
17 monopoly utility such as APS. Any solution, whether proposed in this Docket or in the
18 eventual rate case that is the proper forum for evaluating the costs and benefits of net
19 metering, that does not (1) foster such a competitive market by (2) allowing consumers to
20 self-generate and to (3) off-set their usage one-for-one with their generation, should be
21 rejected as both unfair to consumers and out of step with the law and policy of Arizona.

22
23 **IV. DEFERRAL UNTIL APS’S NEXT GENERAL RATE CASE IS NOT**
24 **“DOING NOTHING”**

25 SEIA is mindful that the Commission is under pressure to “do something.” The
26 Commission is clearly aware that a significant amount of this pressure is due to a massive
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28 ¹⁸ Ariz. Rev. Stat. § 40-202(B).

1 advertising campaign by APS, and by outside groups funded by APS, designed to force
2 the Commission to act now.¹⁹ SEIA believes this is because APS knows that it must
3 overcome the clear requirements of Arizona law that the changes to its rate structures that
4 it proposes only be addressed in a general rate case. SEIA further believes that the
5 procedural protections and pace of such a rate case will foster an environment in which
6 the Commission can make a reasoned, evidence-based determination, rather than feeling
7 itself bullied to action by APS's public relations machine.

8 Staff has recommended that the most appropriate venue in which to "do
9 something" would be in such a rate case. SEIA, for its part, believes that deferring
10 consideration of NEM issues to APS's next general rate case is not only appropriate but
11 is, for the reasons set forth in the SEIA Motion, legally required. SEIA notes that no
12 party – not APS, not Staff, and not RUCO – has explained how APS can be permitted to
13 change its rates as is proposed here, outside its next general rate case, in conflict with
14 Arizona law and appropriate process. SEIA further wishes to remind the Commission
15 that the Commission actually just did "do something" about this issue when it instituted
16 the Lost Fixed Cost Recovery Mechanism (the "LFCR") last year. APS, at the time,
17 testified that the LFCR solved the exact problem that APS has now placed before the
18 Commission again in this Docket.²⁰

19 It should be noted, however, that deferring a final determination of NEM-related
20 issues to APS's next general rate case is not equivalent to "doing nothing." Deferring
21 determination of these issues until APS's next rate case is the Commission upholding
22 Arizona law, preserving the Settlement Agreement entered into to resolve APS's last rate
23 case, confirming its prior ruling, allowing the LFCR to work, and ensuring the rate
24 certainty the Settlement Agreement was intended to provide.²¹ Deferring determination

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26 ¹⁹ See, e.g., Letter from Commissioner Robert L. Burns to Commissioners and Interested Stakeholders re
Net Metering Docket No. E-01345A-13-0248, October 30, 2013.

27 ²⁰ SEIA Motion at 13 (citing to APS's testimony in support of the Settlement Agreement that "The LFCR
mechanism represents a tailored solution to address the unrecovered fixed costs associated with EE and
DG[.]").

28 ²¹ See, e.g., SEIA Motion at 17, l: 12-20.

1 of these issues until APS's next rate case is the Commission acting responsibly to meet
2 its obligations to only permit ratemaking when it has made the investigations required by
3 *Scates v. Ariz. Corp. Commission* into the value of APS's property, the effect of proposed
4 changes on APS's revenue, the costs of the utility apart from the affected services, and
5 the effect on APS's rate of return.²² Moreover, deferring a final determination of NEM
6 issues to APS's next general rate case does not mean the Commission must leave all
7 evaluation of these issues aside until APS files its rate case.

8 For example, Staff's recommendation to open a generic investigatory docket and
9 hold workshop meetings in order to properly determine the costs and benefits of NEM is
10 a good one.²³ IREC's similar recommendation to hold conferences leading to an
11 independent third party determination of and proposal regarding the costs and benefits of
12 NEM is also sound.²⁴ Any recommendation, whether it comes from APS, from Staff,
13 from RUCO, or from any other party, to assume that NEM imposes costs and to proceed
14 on the basis of that assumption is an unjustified, inappropriate "ready, fire, aim" result
15 that the Commission should not accept from or otherwise support at the insistence of any
16 party nor engage in on its own motion. Put simply, the Commission should not "do
17 something" if that something is the wrong thing, and the Commission has not yet
18 conducted the proper, legally-required ratemaking process necessary to afford itself the
19 opportunity to determine what the right thing is.

21 V. CONCLUSION

22 For the reasons set forth in SEIA's Motion, SEIA's Reply, and this filing, the
23 Commission should reject APS's Application as both deficient and impermissible under
24 Arizona law and this Commission's orders, and order dismissal of APS's Application.
25 The Commission should not consider any version of APS's recommended solutions,
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27 ²² See, e.g., *Id.* at Section IV (discussing *Scates* and why APS's Application fails as proper ratemaking).

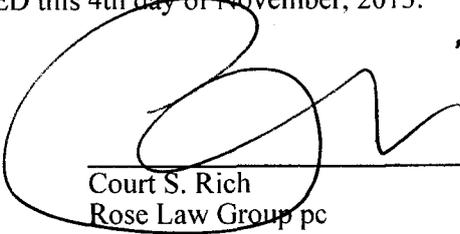
28 ²³ Memorandum at 10.

²⁴ See Protest of the Interstate Renewable Energy Council, Inc., dated August 29, 2013.

1 which have been thoroughly repudiated by both SEIA's and other parties' – including
2 Staff's – filings in this matter. Nor should the Commission consider or impose
3 unsupported "solutions" to an alleged "problem" that has not been fully and fairly
4 evaluated (including, but not limited to, any party's recommended modifications to the
5 LFCR). The Commission should further require that APS address the issues discussed in
6 the Application, if they are to be addressed at all, only in the filing of APS's next general
7 rate case, after May 31, 2015. The Commission ought to, if it wishes, order further
8 interim evaluation of NEM issues, including a full evaluation of the costs and benefits of
9 NEM, pending a final determination of these issues in APS's next general rate case.

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RESPECTFULLY SUBMITTED this 4th day of November, 2013.



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