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BEFORE THE ARIZONA CORPORATION COMMISSION

Bob Stump, Chairman
Gary Pierce, Commissioner
Brenda Burns, Commissioner
Bob Burns, Commissioner
Susan Bitter Smith, Commissioner

Arizona Corporation Commission
DOCKETED
NOV 12 2013

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

Docket No. E-01345A-13-0248

**MOTION TO TERMINATE LFCR &
ORDER AN IMMEDIATE GENERAL RATE CASE**

The Alliance for Solar Choice ("TASC") moves the Arizona Corporation Commission ("Commission") to: (1) suspend or terminate the lost fixed cost recover ("LFCR") mechanism that was adopted in the recently-concluded Arizona Public Service Company ("APS") general rate case ("GRC"); and (2) require APS immediately to file a GRC, which may focus on the residential rate design that fundamentally is at issue in the APS Application. This is the only legal means to impose a new rate, charge or classification on residential solar customers prior to 2016.

**THE COMMISSION SHOULD SUSPEND THE LFCR
AND ORDER APS TO FILE A NEW RATE CASE.**

In an October 17, 2013, letter to the docket, Commissioner Pierce expressed concern that the Commission not have to wait until 2015 to grant APS's request for a new rate, charge or

1 classification on residential solar customers. The October 17, 2013 letter states:

2 "If the Commission were to conclude that Net Metering results in a cost shift, the
3 question becomes how and when the Commission should offer a policy solution that
4 addresses it. The fact is that APS will not be filing a rate case until 2015, with new rates
going into effect no sooner than July 2016."

5 APS entered a settlement in its recently concluded GRC, the terms of which purports to
6 prevent APS from filing a rate case before May 31, 2015. However, the settlement agreement and
7 Commission order concluding the GRC establishes conditions under which the moratorium on a
8 new GRC can be lifted. Section 9.11 of the Settlement Agreement incorporated in Decision No.
9 73183 (May 24, 2012) states:
10

11 "If the Commission decides to suspend, terminate, or materially modify the LFCR
12 mechanism prior to the Company's next general rate case, and does not provide
13 alternative relief that adequately addresses fixed cost revenue erosion, the moratorium for
filing general rate case application shall terminate."

14 This same language also appears in the Order itself in Section IX, page 14, bullet point two.

15 APS, Commission Staff and the Residential Utility Consumers Office ("RUCO") all
16 supported the design of the LFCR as parties to the recent APS GRC. However, APS, Staff and
17 RUCO now propose to materially modify the LFCR to impose new charges on residential solar
18 customers. *See Recommended Order, Oct. 1, 2013, p. 14, ll. 14-16; RUCO Comments on Staff's*
19 *Memorandum and Proposed Order, p. 1, Oct. 30, 2013; APS Comments on Staff Report and*
20 *Recommended Order, p. 14, ll. 8-26.* However, use of the LFCR does not negate Arizona's
21 constitutional restrictions on single-issue ratemaking.
22

23 RUCO's November 8, 2013, filing acknowledges it proposes a new charge outside a
24 GRC: "RUCO introduces a charge (without waiting for a rate case) that will rationalize the
25 market to compliance levels." RUCO's statement is troubling for two reasons. First, it admits to
26 inappropriate single-issue ratemaking outside a GRC. Second, RUCO acknowledges that it has
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1 engineered proposed charges to control residential solar market activity. No part of the Arizona
2 Constitution allows the Commission to use rate design to “rationalize” the solar market, and
3 RUCO’s use of the LFCR does not insulate the Commission from constitutional requirements for
4 determining just and reasonable rates.
5

6 A clear majority of parties in this proceeding recognize that Arizona law requires a GRC
7 to establish rates, charges and classifications. *See, e.g.,* The Arizona Competitive Power
8 Alliance, p. 1, ll. 23-25, Nov. 4, 2013 (“The long term solution will be for the ACC to establish
9 retail electric rates that reflect the true portion of fixed and variable costs associated with serving
10 each customer. Unfortunately, this type of rate design change can only be accomplished in the
11 context of a full rate case.”); Solar Energy Industries Association, p. 2, ll. 5-8, Nov. 4, 2013
12 (“SEIA agrees with Staff that deferral of a final determination of these issues to APS’s next
13 general rate case is the appropriate (and, SEIA has argued, legally required) outcome of this
14 proceeding.”); Western Resource Advocates, p. 2, Nov. 6, 2013 (“We conclude that... any
15 changes in rate design should be considered only in a rate case where better data would be
16 available.”); Arizona Solar Energy Industries Assoc., p. 1, ll. 25-27, No. 4, 2013 (“AriSEIA is in
17 agreement with Commission Staff that a true examination of this issue can only fairly and
18 comprehensively be undertaken in a general rate case...”); SouthWestern Power Group II, LLC,
19 p.3, Nov. 4, 2013 (“We appreciate that it is procedurally difficult to fix rate design outside of a
20 rate case.”); Interstate Renewable Energy Council, Inc., p. 2, Oct. 10, 2013 (“IREC agrees with
21 Staff that the Commission should hold workshops to develop an agreed-upon methodology for
22 the valuation of DG in advance of APS’s next rate case.”); Arizona Solar Deployment Alliance,
23 p. 3, ll. 8-9, Nov. 4, 2013 (“For these reasons, ASDA supports Staff’s initial recommendation of
24 waiting to decide the NEM issue in the next APS rate case.”)
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1 The Commission should observe its constitutional requirements for rate setting and not
2 inappropriately approve a rate, charge or classification outside a GRC. Use of the LFCR does
3 not absolve the Commission of its responsibilities. However, that does not mean that the
4 Commission is without power to act before 2015. Although the terms of APS's recently
5 concluded GRC restrict, in most circumstances, APS from entering a new GRC before 2015, the
6 terms do allow the Commission to suspend or terminate the LFCR mechanism, lift the
7 moratorium on a new GRC before 2015, and order a new GRC to develop solutions to address,
8 with respect to residential rate design, the APS fixed cost revenue erosion, among other matters.
9

10 **WHEREFORE**, TASC moves that the Commission immediately suspend or terminate the
11 LFCR and order APS to file a new general rate case application with the Commission.
12

13 RESPECTFULLY SUBMITTED this 12th day of November, 2013.
14

15 By



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CERTIFICATE OF SERVICE

I hereby certify I have this day sent via hand delivery an original and thirteen copies of the foregoing **TASK MOTION TO TERMINATE LFCR** on this 12th day of November, 2013 with:

Docket Control
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

I hereby certify that I have this day served the foregoing documents via regular mail on all parties of record and all persons listed on the official service list for Docket No. E-01345A-13-0248 on the Arizona Corporation Commission's website:

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13 Dated this 12th day of November, 2013.

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