

**ORIGINAL**

Arizona Corporation Commission

**DOCKETED**

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**CHAIRMAN STUMP'S PROPOSED AMENDMENT #2**



0000149492

DATE PREPARED: November 12, 2013

DOCKETED BY 

COMPANY: Arizona Public Service Company

AGENDA ITEM NO.: 10

DOCKET NO: E-01345A-13-0248

OPEN MEETING DATE: November 13-14, 2013

The purpose of this amendment is to address contentions related to the proposed adoption of Staff alternative 1, Staff alternative 2, or any similar alternative.

On page 20, line 26, **INSERT** the following:

Discussion

74. In APS's last rate case, the parties to the settlement agreement concluded that the proliferation of DG will lead to lost fixed costs:

The signatories . . . recognize that, under APS's current volumetric rate design, the Company recovers a significant portion of its fixed costs of service through kilowatt-hour ("kWh") sales. Commission rules related to EE and Distributed Generation ("DG") require APS to sell fewer kWh, which, in turn, prevents the Company from being able to recover a portion of the fixed costs of service embedded in its energy rates.

Decision No. 73183, Exhibit A, ¶ 9.1.

75. They also proposed a Lost Fixed Cost Recovery ("LFCR") mechanism as a means of allowing APS to recover its lost fixed costs:

[T]he signatories intend that a Lost Fixed Cost Recovery ("LFCR") mechanism with residential opt-out rates shall be adopted that allows APS relief from the financial impact of verified lost kWh sales attributable to Commission

requirements regarding EE and DG while preserving maximum flexibility for the Commission to adjust EE and DG requirements, either upward or downward, as the Commission may deem appropriate as a matter of policy. Nothing in this Agreement is intended to bind the Commission to any specific EE or DG policy or standard.

Decision No. 73183, Exhibit A, ¶ 9.2.

<b>THIS AMENDMENT:</b>		
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_____ Failed _____	Not Offered _____	_____ Withdrawn _____

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76. In Decision No. 73183, we adopted the settlement agreement proposed by the parties, and we specifically agreed with the provisions set forth above.

77. Decision No. 73183 (and the Plan of Administration for the LFCR approved therein) set forth a specific method for calculating the yearly dollar amounts to be recovered by the LFCR (hereinafter referred to as "annual LFCR revenue").

78. From our review of the record before us, it is apparent that DG customers are allocated cost responsibility for a disproportionately smaller share of the annual LFCR revenue than non-DG customers. In other words, DG customers contribute less to APS's recovery of its annual LFCR revenue than do non-DG customers, even though DG customers are responsible for creating more lost fixed costs than non-DG customers.

79. This result is inequitable: it is simply unfair for DG customers to contribute less to the recovery of APS's annual LFCR revenue than non-DG customers do. A basic principle of revenue allocation across customer classes is that the cost causer should bear a fair share of the costs that he creates. A revenue allocation that achieves the opposite result can only be regarded as defective.

80. We therefore conclude that the current revenue allocation method (as between DG customers and non-DG customers, respectively) for the recovery of APS's annual LFCR revenue is defective.

81. Some parties to this case contend that we are constrained in our ability to address any potential defects in APS's LFCR unless we undertake a full rate case. Specifically, they argue that *Scates v. Ariz. Corp. Comm'n*, 118 Ariz. 531, 578 P.2d 612 (App. 1978), prevents any changes to APS's rates without a full rate case. They also argue that the stay-out provision of our order in APS's last rate case (Decision No. 73183) precludes any changes in APS's rates before July 1, 2016.

82. In order to maximize the information before us, Staff recommends that we defer these issues until APS's next rate case. Although we would prefer to wait until a rate case to address these issues, the delay inherent in such an approach would not serve the public interest.

83. We take this opportunity to acknowledge the significant volume of attention that this case has received. The Commission has received not only numerous filings from the parties to the case, but also an unusually high number of public comments, whether by mail, e-mail, or telephone. This case has also been the subject of significant media coverage. Clearly, the degree of attention that this case has attracted is an indication of the importance of addressing these issues in a timely manner.

84. Under the circumstances of this case, we conclude that *Scates* does not preclude the remedy that we adopt herein. *Scates* does not require a full rate case every time the Commission changes rates; instead, it merely requires the Commission to ascertain the utility's fair value and to consider the impact of any rate increase upon the utility's rate of return.

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_____ Failed _____	_____ Not Offered _____	_____ Withdrawn _____

85. In this case, we are not increasing APS's revenues in any way; instead, we are merely adjusting the allocation of cost responsibility (as between DG and non-DG customers) for APS's annual LFCR revenue. For the purposes of this case, we find that APS's fair value rate base is \$8,167,126,000, the number that we approved in APS's last rate case (Decision No. 73183). We also find that 6.09 percent (APS's current fair value rate of return) remains appropriate as a fair value rate of return. These findings are appropriate because we are not increasing APS's revenue requirement.

86. A full rate case for a utility of APS's size can be time-consuming. To read *Scates* as requiring a full rate case in order to address the defect identified herein would be harmful to the public interest, especially in light of our express consideration of the fair value information and the fair value rate of return information addressed in Finding of Fact No. 85.

87. The adjustments adopted herein are intended to be revenue neutral to APS. To ensure a revenue neutral result, we will make these adjustments interim and subject to true-up in APS's next rate case, which we will require APS to file at the earliest date consistent with our order in Decision No. 73183.

88. We also conclude that the rate case stay-out provision in Decision No. 73183 does not prevent us from adopting appropriate changes in the LFCR. Although we recognize that the parties to Decision No. 73183 contemplated that APS would not file its next general rate case before June 1, 2015, we note that the settlement agreement (in paragraph 19.1) also stated that "[n]othing in this provision is intended to limit the Commission's authority to change rates at any time pursuant to its lawful authority." That paragraph also recognizes that the Commission retains the ability to respond to an extraordinary event that requires rate relief in order to protect the public interest.

89. We find that the presence of a defect in the method for allocating the revenue spread in the LFCR is such an "extraordinary event," and we believe that it is in the public interest for us to address it now. To conclude that our decision in APS's last rate case (Decision No. 73183) forecloses interim action would be unreasonable, especially in light of paragraph 19.1.

90. We further recognize that our changes herein have been limited to the LFCR. Paragraph 9.11 of the settlement agreement provides that "[t]he LFCR shall be subject to Commission review at any time . . . ." In paragraph 9.13, the agreement provides that the LFCR is "designed to be a flexible means to maximize the policy options available to the Commission and to customers, allowing the pursuit of . . . DG programs at any level or pace directed by the Commission." Our order in Decision No. 73183 adopted the LFCR as proposed, and our adoption thereof was based on our understanding that the LFCR is an adjustor mechanism, subject to adjustments and mid-course corrections between rate cases. Our adjustments as adopted herein fall within the type of adjustments contemplated by Decision No. 73183 and the settlement agreement in that proceeding.

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_____ Failed _____	_____ Not Offered _____	_____ Withdrawn _____

91. APS's proposals in this case, while arguably related to rate design, carry with them the potential to change APS's rates in a way that is not revenue neutral. We therefore expressly reject these proposals at this time.

On page 21, line 6, **INSERT** the following:

3. For the purposes of this case, we will rely on the fair value rate base and fair value rate of return findings that we adopted in APS's last rate case. These findings are appropriate because we are not increasing APS's revenue requirement.
4. The Court of Appeals' opinion in *Scates* does not preclude the remedy that we adopt herein.
5. Our order in APS's last rate case (Decision No. 73183) does not preclude us from adopting appropriate changes to the LFCR.
6. The presence of a defect in the method for allocating the revenue spread in the LFCR is an "extraordinary event" for purposes of Decision No. 73183.
7. The changes that we adopt herein are limited to the LFCR mechanism.
8. The adjustments adopted herein are interim and are subject to true-up in APS's next rate case.

**MAKE ALL CONFORMING CHANGES.**

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