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AZ CORP COMMISSION  
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**ORIGINAL**

**BEFORE THE ARIZONA CORPORATION COMMISSION**

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CHAIRMAN**

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COMMISSIONER**

**BRENDA BURNS  
COMMISSIONER**

**SUSAN BITTER SMITH  
COMMISSIONER**

**BOB BURNS  
COMMISSIONER**

11 IN THE MATTER OF THE APPLICATION OF  
12 ARIZONA PUBLIC SERVICE COMPANY FOR  
13 APPROVAL OF UPDATED GREEN POWER  
14 RATE SCHEDULES GPS-1, GPS-2 AND GPS-3.

DOCKET NO. E-01345A-10-0394

14 IN THE MATTER OF THE  
15 APPLICATION OF ARIZONA PUBLIC  
16 SERVICE COMPANY FOR APPROVAL OF ITS  
17 2013 RENEWABLE ENERGY STANDARD  
18 IMPLEMENTATION FOR RESET OF  
19 RENEWABLE ENERGY ADJUSTOR

DOCKET NO. E-01345A-12-0290

18 IN THE MATTER OF THE APPLICATION OF  
19 TUCSON ELECTRIC POWER COMPANY FOR  
20 APPROVAL OF ITS 2013 RENEWABLE  
21 ENERGY STANDARD IMPLEMENTATION  
22 PLAN AND DISTRIBUTED ENERGY  
23 ADMINISTRATIVE PLAN AND REQUEST  
24 FOR RESET OF ITS RENEWABLE ENERGY  
25 ADJUSTOR.

DOCKET NO. E-01933A-12-0296

Arizona Corporation Commission  
**DOCKETED**

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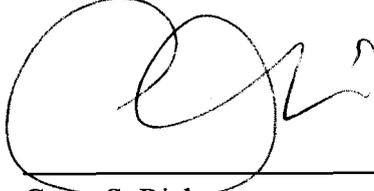
23 IN THE MATTER OF THE APPLICATION OF  
24 UNS ELECTRIC, INC. FOR APPROVAL OF ITS  
25 2013 RENEWABLE ENERGY STANDARD  
26 IMPLEMENTATION PLAN AND  
27 DISTRIBUTED ENERGY ADMINISTRATIVE  
28 PLAN AND REQUEST FOR RESET OF ITS  
RENEWABLE ENERGY ADJUSTOR.

DOCKET NO. E-04204A-12-0297

**SOLAR ENERGY INDUSTRIES  
ASSOCIATION'S COMMENTS TO STAFF  
AND APS'S PROPOSED COMMENTS**

1 Solar Energy Industries Association ("SEIA"), by and through its undersigned counsel  
2 hereby submits the attached comments to Staff and APS's proposed comments in the above  
3 captioned matter.  
4

5 **Respectfully submitted** this 5<sup>th</sup> day of February, 2014.  
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1 **Original and 13 copies filed on**  
2 **This 5<sup>th</sup> day of February, 2014 with:**

3 Docket Control  
4 Arizona Corporation Commission  
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7 *I hereby certify that I have this day served the foregoing documents on all parties of record in  
8 this proceeding by sending a copy via electronic and/or regular U.S. mail to:*

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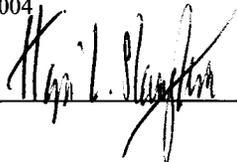
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February 5, 2014

## I. INTRODUCTION

The Solar Energy Industries Association (SEIA<sup>1</sup>) submits these comments in response to Staff's proposed waiver amendments and Arizona Public Service Company's (APS) comments filed on January 31, 2014 in the Track and Record docket<sup>2</sup>. SEIA supports Staff's proposed amendments to the waiver requirement filed on January 24, 2014. However, SEIA adamantly opposes APS's proposal to eliminate the distributed energy requirement (DE carve-out), and two elements of APS's amendments to Staff's waiver proposal.

## II. ARGUMENT

APS's proposal to eliminate Arizona's successful DE carve out, and effectively lower the State's renewable energy standard (the "REST") from 15% to 10.5%, disregards the facts clearly established on the record in this proceeding and recognized by the Administrative Law Judge in the Recommended Opinion and Order (ROO). Namely, elimination of the DE carve-out would be devastating to Arizona solar and ratepayers, and a waiver of the DE carve-out is the appropriate course of action at this time. In addition, APS's request for a prospective waiver, and attempt to lower the overall REST by making the waiver "permanent," should be rejected.

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<sup>1</sup> The positions expressed herein are the positions of SEIA and not the positions of any individual member company

<sup>2</sup> Docket Nos. E-01345A-10-0394, et. al.

**1. The Distributed Generation Carve Out of the REST Must be Retained and the REST Should Not be Reduced to 10.5%**

APS's filing from January 31, 2014, attempts to return to the very beginning of this proceeding and propose that the Commission eliminate the DE carve-out.<sup>3</sup> The ROO and interested stakeholders have considered and roundly rejected this proposal.<sup>4</sup> Through extensive testimony and briefing, the parties, including Staff, have overwhelmingly agreed that removal of the DE carve-out would be devastating to the Arizona solar market and is not necessary at this time.<sup>5</sup> This conclusion is confirmed by the ROO, which clearly rejects the idea of eliminating the DE carve-out and recommends that the Commission allow utilities to apply for waivers as needed.<sup>6</sup>

In resurrecting the failed proposal of eliminating the DE carve-out, APS raises no new concerns that are not addressed by the alternative waiver proposal in the ROO as modified by Staff's proposed amendments (as further discussed below). Eliminating the DE carve-out is not any less expensive than the waiver recommended in the ROO, provides no better protection to RECs than the waiver recommended in the ROO, and would reduce the REST from 15% to 10.5%. In addition, the proposal puts Arizona's solar market and Arizona ratepayers at significant risk by removing a key policy when the strength of the market is unknown.

In its comments, APS takes great pains to spell out how it cannot be expected to predict future installation rates of rooftop solar even on an annual basis, but conversely argues that the DE carve-out is no longer needed and should be removed.<sup>7</sup> If APS cannot predict installation levels on an annual basis, how can it be confident that the DE market is strong enough to justify

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<sup>3</sup> APS Comments January 31, 2014 at 2

<sup>4</sup> ROO at 52 Gray Cross at 701; Baker Cross at 380; Gilliam Cross at 283; Cullen Hitt Direct at 9; NRG 536; 550-551; Beny Cross at 481

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> APS Comments January 31, 2014 at 2, 8

removal of the DE carve-out? This is absolutely nonsensical and completely disregards the facts that have been established in this extensive proceeding.

Eliminating the requirement today leaves ratepayers with no assurance that rooftop solar will be installed even at compliance levels going forward. Annual waivers will accomplish this goal while a complete waiver fails in this regard. Therefore, the Commission should reject APS's proposal and adopt the waiver recommended in the ROO.

## **2. The Waiver Should Be Based on Actual DE Installations, and Should Not be Prospective**

The purpose of the waiver is to allow the Commission to determine whether the DE market is strong enough to grow without cash incentives. This requires real and accurate data showing the pace of DE installations. Therefore, the Commission should grant the waiver by looking at past data that reflects actual DE installations.

APS argues that its ability to comply with the DE requirement is a prospective issue, and requests that the waiver be forward looking rather than backward looking.<sup>8</sup> The Commission should reject APS' request for a prospective waiver because it will undermine the very purpose of the waiver – to allow the Commission to get an accurate picture of the DE market. In fact, APS states in its comments that utilities are “simply unable to provide accurate or worthwhile predictions regarding future DG installations. Moreover, given the inevitable inaccuracies, it is not clear what benefits such a forecast would provide.”<sup>9</sup> This underscores the importance of using past data that reflects actual installations, rather than predictions, to determine whether a waiver should be granted.

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<sup>8</sup> APS Comments January 31, 2014 at 8

<sup>9</sup> Id.

If APS is concerned that it may not be granted a waiver due to a low installation rate during a given year, then APS can bring its concern to the attention of the Commission. Mid-year filings are routinely made by utilities to address issues related to incentives and the REST. However, if a waiver is granted before the market is properly monitored, there will be little incentive (and incomplete data) for utilities to determine the real growth of the market. This will undermine the entire point of this proceeding.

Therefore, SEIA requests that the Commission deny APS's request to grant the waiver on a prospective basis and any such proposal should be rejected.

**3. The Commission Should Reject APS's Permanent Waiver Proposal to Ensure That the Overall REST Requirement Remains in Place After a Waiver has Been Granted**

In Staff's waiver amendments, Staff properly states that the REST should not be reduced by the amount of DG waived during a waiver year.<sup>10</sup> This is a proper form of the waiver for two reasons: 1. The waiver is only intended to apply to the DE carve-out and 2. Utilities that are granted a waiver will not be required to pay out cash incentives during a waiver year.

First, the entire purpose of this proceeding is to determine how utilities can comply with the DE carve-out once cash incentives have reached zero.<sup>11</sup> Thus, the scope of this proceeding only applies to the DE carve-out and does not apply to the overall REST. The Commission should reject APS's attempts to increase the scope of the proceeding to lower its overall compliance requirements under the REST by requesting permanent relief from its REST requirements in a waiver year.

Second, APS argues that if the overall REST requirement is not reduced by the waiver amount, APS and ratepayers will be responsible for additional installations than were originally

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<sup>10</sup> Staff waiver amendments January 24, 2104

<sup>11</sup> A.C.C. Order 72737 at 39

required under the REST.<sup>12</sup> However, this is simply not the case. In those years in which a waiver has been granted, the waiver will have been granted precisely because cash incentives were at zero. Therefore, neither the utility nor ratepayers will be paying for extra installations during waiver years. However, utilities should not get compliance credit for years in which they paid out no cash incentives under the REST. This would be crediting utilities for DE growth in their service areas for which they are not responsible. Therefore, utility REST requirements should not be reduced by the amount of DE waived in a waiver year.

### **III. CONCLUSION**

SEIA thanks the Commission for its extensive efforts in this proceeding, and is confident that the Commission will reach a decision that protects ratepayers, encourages continued investment in Arizona's solar market, and addresses the concerns of all parties involved.

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<sup>12</sup> APS Comments January 31, 2013 at 6