



0000150706

OPEN MEETING AGENDA ITEM

1 Court S. Rich, AZ Bar No. 021290  
2 Rose Law Group pc  
3 6613 N. Scottsdale Road, Suite 200  
4 Scottsdale, Arizona 85250  
5 Direct: (480) 505-3937  
6 Email: crich@roselawgroup.com  
7 Attorney for Solar Energy Industries Association

RECEIVED  
AZ CORP COMMISSION  
DOCKET CONTROL  
2014 JAN 8 PM 4:18

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP  
CHAIRMAN

GARY PIERCE  
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

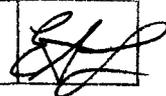
DOCKET NO. E-01345A-12-0290

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

JAN 08 2014

DOCKETED BY 

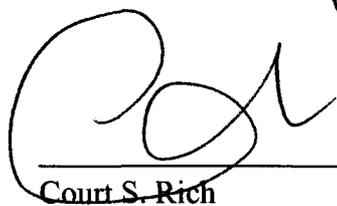
23 IN THE MATTER OF THE APPLICATION OF  
24 UNS ELECTRIC, INC. FOR APPROVAL OF ITS  
25 2013 RENEWABLE ENERGY STANDARD  
26 IMPLEMENTATION PLAN AND  
27 DISTRIBUTED ENERGY ADMINISTRATIVE  
28 PLAN AND REQUEST FOR RESET OF ITS  
RENEWABLE ENERGY ADJUSTOR.

DOCKET NO. E-04204A-12-0297

SOLAR ENERGY INDUSTRIES  
ASSOCIATION'S EXCEPTIONS TO  
RECOMMENDED ORDER

1 Solar Energy Industries Association ("SEIA"), by and through its undersigned counsel  
2 hereby submits its Exceptions to Recommend Order in the above captioned matter.

3  
4 **Respectfully submitted** this 8<sup>th</sup> day of January, 2014.

5  
6  
7 

8 \_\_\_\_\_  
9 Court S. Rich  
10 Rose Law Group pc  
11 Attorney for SEIA  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **Original and 13 copies filed on**  
2 **This 8<sup>th</sup> day of January, 2014 with:**

3 **Docket Control**  
4 **Arizona Corporation Commission**  
5 **1200 W. Washington Street**  
6 **Phoenix, Arizona 85007**

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:*

9 Janice Alward  
10 Arizona Corporation Commission  
11 1200 W. Washington St.  
12 Phoenix, Arizona 85007

Christopher Thomas  
Squire Sanders LLP  
1 East Washington St., Ste. 2700  
Phoenix, Arizona 85004

Greg Patterson  
Munger Chadwick  
2398 E. Camelback Rd.; Ste. 240  
Phoenix, Arizona 85016

13 Steve Olea  
14 Arizona Corporation Commission  
15 1200 W. Washington St.  
16 Phoenix, Arizona 85007

Thomas Loquvam  
Pinnacle West Capital Corp.  
400 N. 5Th St, MS 8695  
Phoenix, Arizona 85004

Michael Neary  
111 W. Renee Dr.  
Phoenix, Arizona 85027

17 Lyn Farmer  
18 Arizona Corporation Commission  
19 1200 W. Washington St.  
20 Phoenix, Arizona 85007-2927

Timothy Hogan  
ACLP  
202 E. McDowell Rd.; Ste 153  
Phoenix, Arizona 85004

Douglas Fant  
3655 W. Anthem Way -A-109 PMB 411  
Anthem, Arizona 85086

21 Kyle Smith  
22 U.S. Army Legal Services Agency  
(JAL-RL)  
23 9275 Gunston Rd  
24 Fort Belvoir, Virginia 22060

Michael Patten  
Roshka DeWulf & Patten, PLC  
One Arizona Center  
400 E. Van Buren St.; Ste 800  
Phoenix, Arizona 85004

Bradley Carroll  
TEP  
88 E. Broadway Blvd. MS HQE910  
P.O. Box 711  
Tucson, Arizona 85702

25 Karen White  
26 U.S. Air Force Utility Law Field  
27 Support Center  
28 139 Barnes Dr.  
Tyndall AFB, Florida 32403

Scott Wakefield  
Ridenour Hienton & Lewis PLLC  
201 N. Central Ave., Suite 3300  
Phoenix, Arizona 85004-1052

Kevin Koch  
612 N. 7th Avenue  
Tucson, AZ 85705

Craig Marks  
10645 N. Tatum Blvd.; Ste 200-276  
Phoenix, Arizona 85028

Arizona Reporting Service, Inc.  
2200 N. Central Ave.; Ste 502  
Phoenix, Arizona 85004-1481

David Berry  
P.O. Box 1064  
Scottsdale, Arizona 85252-1064

Daniel Pozefsky  
1110 W. Washington St.; Ste 220  
Phoenix, Arizona 85007

C. Webb Crockett  
Fennemore Craig PC  
2394 E. Camelback Road, Suite 600  
Phoenix, AZ 85016-3429

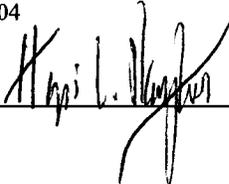
Garry Hays  
1702 E. Highland Ave. - 204  
Phoenix, Arizona 85016

Rick Gilliam  
1120 Pearl St, Ste 200  
Boulder, Colorado 80302

Deborah Scott  
PO Box 53999  
Phoenix, Arizona 85072

Annie Lappe  
1120 Pearl St, Ste 200  
Boulder, Colorado 80302

Rick Umoff  
Solar Energy Industries Association  
505 9th St NW, Ste 800  
Washington, District of Columbia  
20004



**Table of Contents**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I. INTRODUCTION ..... 1

II. SUPPORT FOR THE ORDER..... 2

    1. The Commission Should Adopt the Administrative Law Judge’s Recommendation For an Annual  
    Waiver of the DE REST Requirement ..... 2

    2. The Commission Should Hold a Workshop to Determine a Framework for Implementing the Waiver  
    Recommended by the ALJ ..... 2

    3. If the Commission Chooses Not to Hold a Workshop, It Should Set Forth Criteria for Determining  
    Whether a Requested Waiver is Warranted and Allow for Public Comment ..... 3

III. CONCLUSION ..... 5

1 **I. INTRODUCTION**

2  
3 The Opinion and Order on Track and Record and Potential Alternatives dated December 30,  
4 2013 in Docket E-01345A-10-0394 et al. (the Order) recommends that the Arizona Corporation  
5 Commission (the Commission) adopt Staff's Alternative Track and Monitor proposal.<sup>1</sup> Under  
6 this proposal, utilities would be eligible to apply for a waiver of their distributed energy  
7 requirement (DE carve out) under the Renewable Energy Standard (REST).<sup>2</sup> The Order  
8 recommends that Arizona Public Service Company, Tucson Electric Power Company, and UNS  
9 Electric Inc. be allowed to request in future REST implementation filings a waiver of A.A.C.  
10 R14-2-1805 for the period of a year, which annual requirement shall not be rolled into the  
11 subsequent year.<sup>3</sup> The Order states that the waiver request should include a list of proposed  
12 criteria to aid the Commission in a determination of whether the requested waiver is in the public  
13 interest.<sup>4</sup> Finally, Staff shall issue a public interest analysis and recommendation regarding the  
14 waiver request.<sup>5</sup>

15  
16 The goal of the Order is to provide the utilities relief from compliance requirements in years  
17 where there are no remaining incentives, while monitoring the DE market and preventing double  
18 counting.<sup>6</sup>

19  
20 The Solar Energy Industries Association (SEIA) files its Exceptions in support of the Order.  
21 However, to achieve the goals set out by the Order, it is imperative that the Commission set forth  
22 a clear framework for implementation of the waiver, including criteria that create a baseline for  
23 tracking the DE market that does not result in a claim on DE.

24  
25  
26 

---

<sup>1</sup> Order at 51

27 <sup>2</sup> A.A.C. R14-2-1801 to A.A.C. R14-2-1818; A.A.C. R14-2-1805

28 <sup>3</sup> Order at 52, 53

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id. at 51

1 Established in 1974, SEIA is the national trade association of the United States solar energy  
2 industry and is a broad-based voice of the solar industry in Arizona. Through advocacy and  
3 education, SEIA and its 1,000 member companies are building a strong solar industry to power  
4 America. SEIA represents an estimated 31 member companies who employ approximately 1500  
5 people in Arizona across all market segments – residential, commercial, and utility-scale. The  
6 positions expressed herein are the positions of SEIA and not the positions of any individual  
7 member company.

## 8 9 **II. SUPPORT FOR THE ORDER**

### 10 11 **1. The Commission Should Adopt the Administrative Law Judge’s Recommendation** 12 **For an Annual Waiver of the DE REST Requirement**

13 SEIA congratulates the Commission on its thoughtful and deliberate effort to resolve the issues  
14 presented in the Track and Record docket. SEIA urges the Commission to adopt the  
15 Administrative Law Judge’s (ALJ) recommendation to allow utilities to apply for a waiver on an  
16 annual basis while tracking the DE market for informational purposes. The proposed waiver is  
17 widely supported, addresses the utilities’ compliance concerns, and allows the Commission to  
18 monitor Arizona’s burgeoning DE market while preventing double counting.

19 While SEIA appreciates the consideration taken by the Commission on this issue, SEIA is  
20 concerned that the Order does not provide some needed detail on how the waiver will be  
21 implemented to prevent double counting. To this end, SEIA urges the Commission to setup a  
22 clear framework for implementation of the waiver that allows DE generation to be tracked, but  
23 does not allow claims to be made regarding how much electric load is being met with DE. This  
24 is absolutely crucial to protect system owners from the risk of having their DE counted without  
25 compensation.

### 26 **2. The Commission Should Hold a Workshop to Determine a Framework for** 27 **Implementing the Waiver Recommended by the ALJ**

1 SEIA urges the Commission to hold a workshop to determine the guidelines of the waiver. A  
2 workshop would ensure a concrete framework for waiver justification and minimize time spent  
3 debating the matter in other forums. During this workshop, stakeholders can establish which  
4 criteria should be used to determine that a waiver is warranted. The Commission has spent  
5 considerable time and effort to come to an effective solution in this proceeding, and it is  
6 imperative that the waiver be implemented properly to achieve the goals of this proceeding. A  
7 workshop is the best way to make sure this happens.

8 **3. If the Commission Chooses Not to Hold a Workshop, It Should Set Forth Criteria**  
9 **for Determining Whether a Requested Waiver is Warranted and Allow for Public**  
10 **Comment**

11 The Order recommends that utilities propose criteria to the Commission when requesting a  
12 waiver to help the Commission determine whether a waiver is appropriate.<sup>7</sup> Rather than require  
13 the utilities to propose criteria showing that a waiver should be granted, SEIA strongly  
14 encourages the Commission to set forth criteria in its order adopting the ALJ's recommendation.  
15 This will provide more clarity and uniformity in how the waiver is implemented, and will better  
16 achieve the goals of preventing double counting and protecting the DE market. Further, to ease  
17 the administrative burden on the Commission and ensure that the goals of this proceeding are  
18 achieved, SEIA encourages the Commission to allow for public comment on the criteria before  
19 any waivers are issued.

20 When establishing waiver criteria, SEIA recommends the Commission focus on two areas in  
21 particular:

22 **i. Establish a Clear Baseline for Measuring the DE Market**

23 In order to effectively measure the strength of the DE market going forward, it is important to  
24 establish a meaningful baseline. SEIA recommends the Commission set forth criteria that track  
25 the growth of installed DE capacity, and avoid benchmarks based on load served by DE or REST  
26 compliance. For example, the Commission may consider implementing the following criteria in  
27 its waiver:

28 \_\_\_\_\_  
<sup>7</sup> Order at 53

1           *“The waiver shall be applied to a one year period for which a full set of data (or near full*  
2           *set) has been collected on DE systems installed. Going forward, data from multiple years*  
3           *can be combined and used to request a waiver for one specific year.”*

4 For example, a utility could propose a waiver for 2014 in 2015 after all non-incentive systems  
5 have been accounted for and totaled. Additionally, the Commission may use the following  
6 benchmark:

7           *“One of the criteria shall be the amount of capacity installed compared to past years.”*

8       **ii.       Require That No Claims Be Made on Distributed Energy Covered by the Waiver**

9 To achieve the Commission’s stated goal of preventing double counting, it is imperative that the  
10 waiver be implemented in such a way that does not allow any claims to be made on DE covered  
11 by the waiver.

12 The Order states that “...Staff’s stated goals provide good guidance in addressing the issue of the  
13 Utilities’ compliance with the REST rules...”<sup>8</sup> While SEIA generally agrees with Staff’s goals,  
14 we believe that the second goal should not be used as a criterion to establish the waiver. Staff’s  
15 goal, “Recognize reality regarding how much electric load is actually being met with renewable  
16 energy,”<sup>9</sup> should not be relied upon because it would likely require quantifying and counting  
17 kWh of DE towards load served. This would constitute a claim on the DE being tracked without  
18 compensating system or REC owners, which is counter to the intent of the waiver.

19 Therefore, to ensure that the waiver does not result in double counting, the Commission should  
20 not look to the amount of electric load actually being met with DE. Instead, the Commission  
21 should setup criteria that only measures DE generation, and avoid criteria that quantifies how  
22 much generation has been used to serve load or to meet REST goals.

---

28 <sup>8</sup> Order at 49

<sup>9</sup> Id.

1 **III. CONCLUSION**

2 SEIA appreciates the time and consideration taken by the Commission in this matter. SEIA  
3 urges the Commission to adopt the ALJ's recommendation, and establish clear criteria for  
4 issuing a waiver to ensure that it is properly implemented to alleviate the utility's compliance  
5 concerns, avoid double counting, and monitor Arizona's burgeoning DE market.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28