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**BEFORE THE ARIZONA CORPORATION COMMISSION**

7 **BOB STUMP, CHAIRMAN**  
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9 **GARY PIERCE, COMMISSIONER**  
10 **BOB BURNS, COMMISSIONER**  
11 **SUSAN BITTER SMITH, COMMISSIONER**

Arizona Corporation Commission

**DOCKETED**

AUG 15 2014

DOCKETED BY

12  
13 **IN THE MATTER OF THE**  
14 **APPLICATION OF ARIZONA PUBLIC**  
15 **SERVICE COMPANY FOR**  
16 **APPROVAL OF ITS 2014**  
17 **RENEWABLE ENERGY STANDARD**  
18 **IMPLEMENTATION PLAN FOR**  
19 **RESET OF RENEWABLE ENERGY**  
20 **ADJUSTOR.**

**DOCKET NO. E-01345A-13-0140**

**ARISEIA MOTION TO DISMISS APS  
UTILITY DG PROPOSAL**

21  
22 The Arizona Solar Energy Industry Association (“AriSEIA”) hereby submits this Motion to  
23 Dismiss Arizona Public Service’s (“APS”) Supplemental Application (Utility-Owned DG) (the  
24 “Application”). For the reasons set forth below, AriSEIA believes that the Application must be  
25 immediately dismissed. I

26  
27 I. Introduction  
28

1 The Application seeks an extraordinary shift in Arizona policy. APS, a state sanctioned  
2 monopoly service provider, seeks to provide goods and services that are currently provided to  
3 Arizona consumers through a competitive free market. The entry of a state sanctioned monopoly  
4 into a healthy free market should be rejected. Further, this Application is deficient and must be  
5 dismissed at this time.

6  
7 II. Motion to Dismiss

8 The Application is a proposal for an entirely new program, cannot be treated as a “supplement,”  
9 and cannot be adjudicated in this Docket. A quick review of the history makes it clear that the  
10 Application has no place in this Docket. On January 7, 2014, this Commission issued Decision  
11 74237 approving APS’s 2014 REST Implementation Plan and concluding the action in this  
12 Docket. This final Decision was not appealed and has not subsequently been altered. On July  
13 28, 2014 APS filed the Application purporting to be a “Supplemental Application” seeking  
14 approval of an entirely new program, the AZ Sun DG Program. The Application does not set out  
15 even a single line of support for why this newly proposed program should be considered in the  
16 context of the already adjudicated 2014 REST Plan Docket. In fact, it appears that APS believes  
17 it could have filed this in any Docket in which a prior decision has been issued by merely  
18 labeling this a “Supplement” and including a Docket number.

19 The Application is less a “supplement” to an already decided Docket than it is a seven month  
20 tardy Motion for Reconsideration. APS presents the AZ Sun DG program as an alternative to its  
21 proposed 30 MW Redhawk solar project. However, construction of the Redhawk project was  
22 rejected in Decision 74237 in this Docket. As such, the Application presents an alternative to a  
23 proposal that was rejected in this Docket seven months ago. In order to revisit the rejection in  
24 this Docket, APS would have needed to seek reconsideration within statutorily mandated  
25 timelines. It did not and therefore, this Application must be dismissed as an untimely Motion to  
26 Reconsider.

27 Decision 74237 includes the following relevant Ordering Paragraphs on page 15:  
28

1 "IT IS FURTHER ORDERED that Arizona Public Service Company's plan to move ahead with  
2 10 MW at Luke Air Force Base and 10 MW at the City of Phoenix, as described herein, is  
3 approved. However, the plan for 30 MW at Redhawk is not approved, at this time.

4 IT IS FURTHER ORDERED that Arizona Public Service Company and any interested parties  
5 shall submit information to this docket regarding whether it is necessary to continue the final 30  
6 MW phase of AZ Sun in order to comply with the 2009 Settlement Agreement, as well as discuss  
7 the cost effectiveness of utility owned generation and third party wholesale purchased power  
8 agreements in completing this final 30 MW phase of AZ Sun. This information shall be  
9 submitted by April 15,2014.

10 IT IS FURTHER ORDERED that when Staff files its recommendations regarding Arizona  
11 Public Service Company's 2015 REST Implementation Plan, it shall include a discussion of  
12 whether or not Arizona Public Service Company needs to install any portion of the final 30 MW  
13 phase of AZ Sun in order to comply with the REST Rules and/or the 2009 Settlement Agreement.  
14 These recommendations shall consider the information filed by Arizona Public Service Company  
15 and any interested parties regarding the cost effectiveness of utility owned generation and third  
16 party wholesale purchased power agreements in completing this final 30 MW phase of AZ Sun."

17 (Emphasis added)

18 Based on the above excerpts it is clear that the Commission rejected construction of Redhawk  
19 and ordered that Commission Staff only consider the need for Redhawk in its review of the 2015  
20 Implementation Plan. By way of the Application, APS is seeking an Order from the  
21 Commission that would directly contradict Decision 74237 and approve 20 of the 30 MWs  
22 rejected last year for construction.

23 In addition, there is no evidence in this Docket to support this Application. The previous  
24 Application and subsequent Decision in this Docket never contemplated this proposal. As such  
25 the record is deficient and cannot be built at this time to support this entirely new proposal.  
26 Consideration of this Application in this Docket would indicate that all Commission Decisions  
27 would be continuously reviewable at the demand of the Applicant no matter how long ago they  
28 were adjudicated. This is a result that is as undesirable as it is illegal. The Commission could

1 never produce final Decisions. Applicants would be encouraged to merely tweak rejected  
2 Applications and refile as a “supplement” creating a second bite at the apple and maybe a third  
3 or a fourth. Would a rejection of the “supplement” create an appeal right for the Applicant who  
4 failed to appeal an earlier rejection? This question alone shows why this must be dismissed.

5  
6 Not only is the Application procedurally deficient, it is a bad idea that must be rejected. The  
7 Application will result in; 1) burdensome administrative responsibilities for the Commission and  
8 ratepayers; 2) needlessly increased costs and risks; and 3) an unfair advantage for the monopoly  
9 utility to wielding its monopoly power against competitors in a free market.

10 The barely three page Application does not provide any indication as to how APS intends to deal  
11 with the numerous administrative burdens the program will create. In general these issues fall  
12 into the following categories:

- 13 • Landlord tenant disputes: APS proposes to enter into rooftop leases with 3,000  
14 residential customers. What will this lease look like? Is it fair? Who will adjudicate  
15 disputes?
- 16 • Access issues: APS will require 3,000 easements. What do these look like? Who is  
17 responsible for damage? What happens if homeowners want to rescind access? Should  
18 APS be in the business of recording documents against its customers’ real property?  
19 How will the terms differ from common public utility easements? Who will have  
20 enforcement responsibility to resolve disputes?
- 21 • Scheduling repairs and maintenance: All systems need repair, maintenance and parts  
22 replaced over a long term. How will repairs be coordinated and scheduled?
- 23 • Access by homeowner to roof: How will APS manage access to the roof by the  
24 homeowner?
- 25 • Damage to system caused by the homeowner: What happens if the homeowner is  
26 responsible for system damage?
- 27 • Damage to premises caused by the system: How will APS handle the roof leaks that will  
28 inevitably occur in at least some small percentage of the projects?

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- Selection of installers: Will APS have predetermined prerequisites for local installers that will leave only a few installers eligible for the installation work? Have they already promised some local installers that the criteria for selection will be written to favor them? What if selection criteria exclude lowest cost alternative providers whether they be from Arizona or based in another state? Is it constitutional to forbid participation in a public bidding program because of the domicile of an applicant's entity?
- Who will get to host the systems and receive the \$30/month rental fee? APS seems to want to have it both ways. It has indicated the program will be extra beneficial because it will allow APS to select the location of systems installed to maximize benefit while at the same time saying it will be open to all customers or customers who cannot otherwise get served by current solar providers. These are mutually exclusive selection criteria. It cannot be simultaneously open to all while be placed only in the most ideal locations and only on the roofs of those that cannot otherwise acquire solar. How will this actually be implemented? Who will select based on what criteria?
- Fairness to all customers: Is it fair for APS to offer a \$30 a month discount/rental fee to a subset of its customers and not all? What if one person gets the \$30 rental fee but his neighbor is not selected? Shouldn't programs from a public utility be open to all and fairly available?

The Application hardly speaks of costs except to provide a range of \$57-\$70 million in capital outlay. This is only a small picture of the costs and this Application cannot be acted upon and the ratepayers cannot be saddled with these costs until they are known. In fact, at a stakeholder meeting on August 15, 2014, APS employee Rex Stepp informed stakeholders that, "we don't know what the costs will be for sure." In addition, Mr. Stepp indicated that, "this is a more expensive program" than the Redhawk proposal. The following cost issues must be addressed prior to approval:

- Taxes: What will be the total cost in taxes incurred over the life of the project? Will the lease payments of \$30/month create an income tax liability for APS host customers and will APS inform them of that? Will the presence of the systems increase the property values of the customers' homes for property tax purposes?

- 1 • Operation and maintenance: What is the expected cost of operation and maintenance of  
2 the 3,000 new utility owned power plants? How much will it cost to replace inverters on  
3 each of these systems?
- 4 • Decommissioning: what is the cost of decommissioning of each of these systems?
- 5 • Revenue: How much revenue will APS make over the life of the installations?
- 6
- 7 • Insurance: How much insurance will APS need to acquire and what is the cost to  
8 ratepayers for this new business? Will ratepayers be asked to carry additional insurance  
9 to qualify for the program and what will that cost?
- 10 • Incentives Reintroduced: The \$30/month lease payment is the functional equivalent of  
11 the reintroduction of incentives for solar into market that is now free from incentives.  
12 AriSEIA's preliminary calculations indicate that the incentive structure works out to the  
13 equivalent of an approximately \$0.025-\$0.05/kWh performance based incentive. Why  
14 would the utility be permitted to offer incentives for its benefit when the free market has  
15 no incentives?
- 16 • Fair Incentives: APS has proposed offering customers \$30/month independent of whether  
17 systems are 4kW or 8kW in size. This is an unfair and inefficient way of doing business  
18 and presents as arbitrary. Is this in the best interest of the ratepayer? Why would smaller  
19 systems get larger incentives per kWh?
- 20 • Less Production: APS told renewable program stakeholders on August 14, 2014, that  
21 they prefer to install systems on west facing roofs, which reduces production roughly  
22 another 10% from south facing roofs. Residential solar on south facing roofs will  
23 produce roughly 20% less energy than a tracker system at Redhawk. Even accounting for  
24 avoiding an average of 11% losses in transmission and distribution, this is a substantial  
25 reduction in energy for the ratepayer investment. How many shade trees will further  
26 impact this output in a residential setting?

27 This proposal sets up a lopsided playing field that strongly favors the regulated utility in a market  
28 that is already well served by a competitive free market. The following issues need to be  
considered:

- 1 • **Marketing:** APS has an existing ratepayer funded relationship with each and every  
2 potential rooftop solar customer. Is that fair when compared with the customer  
3 acquisition costs of the free market? APS has a ratepayer funded customer service  
4 program. The free market does not. APS can utilize its bills to include inserts, paid for  
5 by the ratepayers, to market against the free market.
- 6 • **Incumbent Tactics:** APS has already shown it is willing to push this Commission and the  
7 legislature to raise taxes on rooftop solar users. Will APS continue to press lawmakers to  
8 put up roadblocks and barriers to the free market while entering this market?
- 9 • **Socialized Risk:** APS's proposal places ratepayers at risk for damage caused to the roofs  
10 of the 3,000 participants. Free market competitors do not have the advantage of charging  
11 captured ratepayers for damages incurred by some of their customers.
- 12 • **Brand Recognition:** APS has built its brand recognition and goodwill with ratepayer  
13 money for decades. Is it fair to allow a ratepayer funded monopoly to use ratepayer  
14 purchased goodwill to compete against the free market?
- 15 • **Unregulated Affiliate Option:** would it be lower risk to ratepayers and eliminate the  
16 market advantage if APS were to participate in rooftop solar through an unregulated  
17 affiliate? This option should be explored fully.

### 18 III. Conclusion

19 For the forgoing reasons, AriSEIA respectfully requests that the Application be immediately  
20 dismissed.

21  
22 AriSEIA respectfully submitted this document in the above captioned matter.

23 Dated this 15<sup>th</sup> day of August, 2014.

24  
25 By:

26 Arizona Solar Energy Industries Association  
27 Mark Holohan, Chairman

28 Copies to parties on service list.