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**riSEIA**



ARIZONA SOLAR ENERGY  
INDUSTRIES ASSOCIATION

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Suite 2  
Phoenix, Arizona 85027  
AZ CORP COMMISSION  
DOCKET CONTROL

September 16, 2014

Arizona Corporation Commission  
**DOCKETED**

Subject: APS DG Proposal – Docket No. 13-0140

NOV 05 2014

Dear Chairman Stump, Commissioners, and Mr. Olea:

DOCKETED BY

This letter is being sent to you at the direction of the Board of the Arizona Solar Energy Industry Association (“AriSEIA”). AriSEIA is Arizona’s oldest and largest solar industry trade association. We are writing you this letter to express concern regarding APS’s recent proposal to implement a utility owned residential rooftop solar program (the “APS DG Proposal”). While our Board has registered its opposition to this unnecessary and expensive expansion of monopoly power into an area well served by competitive forces, we write you this letter to focus on a particular concern that has only recently come to light and which calls into question the manner in which the APS DG Proposal would be implemented if it were to be approved.

On August 31, 2014 APS Chairman and CEO, Don Brandt, wrote an op-ed that was published in the Arizona Republic that offered APS’s narrative in support for its application. In the opening line of Mr. Brandt’s op-ed he revealed for the first time that the APS DG Proposal is an, “innovative partnership with the Arizona Solar Deployment Alliance.” While the APS DG Proposal was already brimming with unanswered questions, this revelation from Mr. Brandt illuminates several issues that had not previously been contemplated. The following highlights important issues that should be a concern to the Commission moving forward in light of Mr. Brandt’s comments:

- 1) How can a project that APS’s President and CEO is calling an “innovative partnership” between the utility and four solar companies be fairly administered if approved?

In its response to Commissioner Bitter Smith’s letter, APS presented details of the RFI and RFP process that would be used to select contractors to build the APS DG Proposal if it is approved. APS disclosed that the RFI portion of the program has already commenced (despite the fact that the project has not yet been approved) and that the result of the RFI will be the creation of a shortlist that will limit the participants in the final RFP process. Given the announcement of this preexisting partnership between the

four members of the Arizona Solar Deployment Association and APS, AriSEIA is justifiably very concerned that its member installers will not be impartially considered for any work that may flow if the program is approved. In fact, this is one of the core problems the APS DG Proposal to begin with: there is an inherent lack of transparency in the selection process that is ripe for backdoor dealing and does not necessarily serve the interests of the ratepayers.

How can any proposal that is to be awarded through sealed competitive bidding be deemed fair when a subset of the bidders are in an announced preexisting partnership with the entity making the award? We believe this arrangement can never be fair. How can any member of the public be satisfied that APS is truly getting the best deal for ratepayers if it awards a construction contract to a company its CEO said it was in a partnership with on the project before the bidding commenced? Given the age old concern that utilities seek to "gold-plate" ratepayer funded projects to maximize profits, it is unclear how the public interest is served by a preexisting partnership between a utility and a subset of bidders to a project. At the very least this is a perception that should be avoided at all costs, not touted to the public in the newspaper of record.

- 2) What are the specific terms of the "partnership" between APS and the four members of the Arizona Solar Deployment Association?

It is hard to imagine what the terms of a partnership between ASDA and APS could look like without considering the likelihood of potential deal points that call into question the propriety of the arrangement. APS claims that the APS DG Proposal is to be implemented utilizing an RFI and RFP process where only the best bidders will win. It is not readily apparent how a preexisting partnership has any place in such a process. Have APS and ASDA reached agreements as to bidding amounts or terms that would look and act like collusion if utilized? Have ASDA's four members traded their support for the APS DG Proposal, that has otherwise been roundly criticized by the solar industry, for some promise of work to come out of the RFP process? Has APS donated toward ASDA's legal or operational costs to help ASDA support APS's application? When the CEO of the utility proudly announces to the public it has reached an "innovative partnership" with a small group solar installers it is safe to assume that the partnership must mean something. It is hard to conceive of a partnership in this situation that does not raise serious issues with the bidding process. We encourage the Commission to ask the tough and essential questions to protect the public from any notion of predetermined bidding, price fixing, collusion, or inappropriate tradeoffs that undermine the public trust.

- 3) How should the Commission weight the input of a group of four installers that are in "partnership" with APS with regard to the future of the APS DG Proposal?

Finally, we would like to remind the Commission that a group of four solar installers do not speak for the Arizona solar industry. APS, through the "innovative partnership" that Mr. Brandt wrote about, has attempted to paint ASDA as the voice of Arizona's solar

industry. It is not. AriSEIA has long been and continues to be the voice of Arizona's solar industry and on this issue we are speaking independently, not bound by any partnership agreement or financial arrangement with APS.

We believe the concerns we raise above are valid and significant and, while we reiterate our concerns about the APS DG Proposal as a whole, we appreciate the Commission doing whatever it can to make sure that any bidding process that emerges from this discussion is undeniably fair and impartially implemented. Given the announced partnership, this may be a tough task. We look forward to continued input and dialogue on this and other important issues facing our industry.

Sincerely,

Ben Montclair  
Director of Operations, AriSEIA

CC: Board  
Parties to Docket