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BEFORE THE ARIZONA CORPORATION

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**COMMISSIONERS**  
BOB STUMP - Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

IN THE MATTER OF THE PROPOSED  
RULEMAKING TO MODIFY THE  
RENEWABLE ENERGY STANDARD ("RES")  
AND TARIFF RULES

DOCKET NO. RE-00000C-14-0112

STAFF'S RESPONSIVE COMMENTS

ORIGINAL

Staff of the Arizona Corporation Commission ("Staff") files the following responsive comments on the proposed Renewable Energy Standard Tariff ("REST") rule revisions.

**I. BACKGROUND**

On November 3, 2014, Staff filed its initial comments on the proposed REST rule changes. Other comments on the proposed rule revisions were filed on November 10, 2014 by Tucson Electric Power Company and UNS Electric, Inc. (collectively, "TEP/UNSE"), the Alliance for Solar Choice ("ASC"), Arizona Public Service Company ("APS"), the United States Department of Defense and all other Federal Executive Agencies ("DOD/FEA"), Vote Solar, the Residential Utility Consumer Office ("RUCO"), and the Solar Energy Industries Association ("SEIA"). In addition, public comment sessions were held on November 12, 2014 at the Commission's Offices in Tucson, and on November 14, 2014 in Phoenix. Staff has reviewed the TEP/UNSE, ASC, APS, DOD/FEA, RUCO, and SEIA initial comments. Staff representatives also attended the public comment sessions in Tucson on November 12, 2014 and in Phoenix on November 14, 2014. Staff's consideration of all of the written comments it has received to-date, is reflected in Section II of these responsive comments. Staff will summarize and respond to all written and oral comments received in its summary to be submitted on November 21, 2014.

1 **II. STAFF CONTINUES TO RECOMMEND THAT THE COMMISSION ADOPT THE**  
2 **PROPOSED RULE CHANGES.**

3 In its November 3, 2014 comments, Staff offered some additional clarifying revisions to the  
4 proposed rule changes in response to concerns raised by SEIA at the Commission's Open Meeting on  
5 October 16, 2014 that the proposed rule changes were too vague. While Staff does not believe that  
6 the proposed rule changes are vague; Staff wanted to offer clarifying revisions in the event that the  
7 Commission and/or ALJ believed that they were necessary.

8 In their initial comments, TEP/UNSE and TASC did not submit any substantive comments,  
9 and generally reserved their right to file responsive comments. APS supported the proposed rule  
10 revisions. SEIA supported the proposed rule revisions with Staff's proposed clarifications, as  
11 discussed below.

12 Vote Solar commented that certain parts of the proposed rule revisions are vague, but that, if  
13 Staff's proposed clarifications are adopted, those clarifications would satisfactorily address Vote  
14 Solar's concerns about double-counting RECs. Vote Solar also expressed a concern that if the  
15 proposed rule changes (without Staff's changes) are adopted, customers owning RECs in Arizona  
16 will be unable to receive Green-energy and other certification for their RECs. Vote Solar also  
17 recommends that the Commission begin using a tracking system to track REST compliance.

18 RUCO also generally supported the NPRM, with Staff's clarifications, and is of the opinion  
19 that, with Staff's clarifications, the proposed rule revisions satisfactorily address the goal of ensuring  
20 that there is no double-counting of RECS.

21 DOD/FEA's comments expressed concerns about double-counting RECs. DOD/FEA argues  
22 that double-counting would prohibit them from using their RECs for required federal renewable  
23 energy requirements and goals. DOD/FEA advise that DOE's energy guidance policies specifically  
24 prohibit double-counting. However, at page four of their comments, DOD/FEA stated the following:

25 "after review of Staff's comments and proposed changes, it may be that  
26 these changes are sufficient to address the problems with the proposed rule  
27 change, to uphold REC integrity in Arizona, and protect the rights of  
28 customers like the VA. However, it may be prudent to seek the opinion of

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the Center for Resource Solutions to determine whether this is, in fact, the case.”

Thus it appears that, notwithstanding its expressed concerns, DOD/FEA generally supports the proposed rule changes, so long as Staff’s clarifications are adopted.

Staff’s clarifications to the proposed rules are presented at page 5, lines 4-27, and in Exhibit A to its initial comments. The clarifications would, in Staff’s opinion, clarify that the non-utility owned RECs (or kWhs) will be reported for informational purposes only and will not be used to determine compliance with the REST rules. As detailed in Subsection II.A, above, many of the commenters support Staff’s clarifications to the proposed rules, and believe that they provide needed clarity to ensure against double-counting.

Staff believes that the proposed rules are perfectly clear even without Staff’s clarifications. However, Staff believes that its clarifying revisions to the REST rule changes are not a substantial change under A.R.S. Section 41-1025(A) and should be adopted only if the Commission and/or ALJ believe that the rules as originally proposed are ambiguous.

In addition, none of the parties in their written comments stated that the Staff’s clarifying modifications amount to a “substantial change” for purposes of A.R.S. 41-1025(A) (SEIA specifically agreed with Staff that the clarifications do not amount to a “substantial change”).<sup>1</sup>

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<sup>1</sup> However, one party at the Phoenix Public Comment session stated that they believed it was a substantial change.

1 **III. CONCLUSION**

2 For the reasons stated above, and in its November 3, 2014 filing in this docket, Staff  
3 recommends that the Commission adopt the proposed rule revisions. The clarifying additions and  
4 modifications set forth in Exhibit A to Staff's November 3, 2014 filing, could be adopted to the  
5 extent the Commission or ALJ believe that the clarifications to the proposed rules are necessary.

6 RESPECTFULLY SUBMITTED this 14<sup>th</sup> day of November, 2014.

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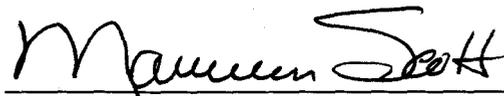
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