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8 **BEFORE THE ARIZONA CORPORATION COMMISSION**

9 COMMISSIONERS

Arizona Corporation Commission

DOCKETED

NOV 14 2014

10 BOB STUMP, Chairman  
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13 PROPOSED RULEMAKING TO MODIFY  
 14 THE RENEWABLE ENERGY STANDARD  
 15 RULES IN ACCORDANCE WITH ACC  
 DECISION NO. 74365.

DOCKET NO. RE-00000C-14-0112

APS RESPONSIVE COMMENTS

16  
 17 Since June 29, 2012,<sup>1</sup> Arizona Public Service Company (APS or Company) has  
 18 sought guidance from the Arizona Corporation Commission (Commission) on how to  
 19 demonstrate compliance with the Distributed Energy (DE) requirements when the  
 20 Company no longer purchased DE Renewable Energy Credits (RECs) with direct cash  
 21 incentives. APS believes that the purpose of the Notice of Proposed Rulemaking  
 22 (NOPR)<sup>2</sup> was to establish a means for the Commission to determine compliance with the  
 23 Renewable Energy Standard and Tariff (REST) Rules<sup>3</sup> in a manner that did not require  
 24 utilities to acquire, and then retire, DE RECs.

27 <sup>1</sup> 2013 Renewable Energy Standard Implementation Plan, A.C.C. Docket No. E-01345A-12-0290.  
 28 <sup>2</sup> 20 Ariz. Admin. Reg. 2749 (October 10, 2014).  
<sup>3</sup> A.A.C. R14-2-1801 to -1816.

1 As APS indicated in its comments filed on November 10, 2014, the Company  
2 supports the proposed modifications to the REST Rules that the Commission filed in its  
3 original NOPR.<sup>4</sup> APS believes that the proposals in the NOPR provide a reasonable  
4 framework for considering utility compliance during a time in which direct cash  
5 incentives (and the RECs associated with those incentives) are no longer available.

6 However, APS is struggling to understand the impact of the Staff Comments filed  
7 November 3, 2014 (November 3<sup>rd</sup> Comments), and to understand how the Company  
8 would establish compliance under the new proposed changes. It appears that the  
9 November 3<sup>rd</sup> Comments have stripped away alternative means for utilities to  
10 demonstrate compliance by eliminating the nexus between compliance with the REST  
11 Rules and the Commission's consideration of all available information.

12 The rule modifications proposed in the NOPR provide flexibility for the  
13 Commission in determining compliance under the REST, allowing for any number of  
14 factors to be considered. As explained in the Preamble of the NOPR:

15 Under the present rules, utilities demonstrate compliance with the DE  
16 [Distributed Energy] requirements through RECs [Renewable Energy  
17 Credits]. The proposed rule changes are necessary to address the problem  
18 created when DE incentives are no longer offered by the utility and the  
19 utility therefore no longer obtains RECs from the customer. The proposed  
20 rule changes do this by noting that the Commission may consider all  
21 available information. All available information may include measures  
22 such as market installations, historical and projected production and  
23 capacity levels in each segment of the DE market and other indicators of  
24 market sufficiency activity. (*Emphasis added.*)

25 Section 8.

26 This flexibility in determining compliance is the basis for APS's support of the  
27 NOPR proposed changes. For example, the total amount of renewable energy installed  
28 in a utility's service territory is one of the factors the Commission would likely consider  
in analyzing the robustness of the renewable energy market. By removing the nexus to  
compliance in the language of the Rules, it appears that the November 3<sup>rd</sup> Comments

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<sup>4</sup> 20 Ariz. Admin. Reg. 2749 (October 10, 2014).

1 effectively eliminate the ability for measures such as market installations and historical  
2 and projected production and capacity levels to be considered by the Commission for  
3 compliance purposes. With the November 3<sup>rd</sup> Comments, it appears that all that is left  
4 for the Commission to determine compliance is whether the utility has sufficient utility-  
5 owned RECs to meet the REST's annual quantitative requirements.

6 If this is the case, the ultimate result would be that utilities will have to purchase  
7 RECs from third parties, which would have a direct and negative impact on customers.  
8 They will be the ones who will be paying for purchasing RECs as a cost of service. In  
9 the alternative, to protect customers from incurring additional costs year after year, the  
10 utilities may choose to request waivers instead – an outcome that challenges the very  
11 purpose of the REST Rules.

12 APS believes that the November 3<sup>rd</sup> Comments introduce uncertainty, making it  
13 difficult to determine how a utility is to successfully establish compliance under the  
14 REST Rules. If the modifications proposed in the November 3<sup>rd</sup> Comments are adopted,  
15 the fundamental question raised more than two years ago remains unresolved, despite  
16 the numerous discussions and days of evidentiary hearing.

17 APS is open to understanding more from Commission Staff regarding how  
18 utilities could establish compliance under the November 3<sup>rd</sup> revisions. But it appears  
19 that the only two options for demonstrating compliance under those revisions are either  
20 acquiring DE RECs or obtaining a waiver. If so, APS believes that the Commission  
21 should reject the November 3<sup>rd</sup> revisions and adopt the REST rule modifications  
22 contained in the NOPR to provide certainty for utilities and avoid increased costs to  
23 customers.

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RESPECTFULLY SUBMITTED this 14th day of November, 2014.

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ORIGINAL and thirteen (13) copies of the foregoing filed this 14th day of November, 2014, with:

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