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1 Thomas A. Loquvam
 2 Pinnacle West Capital Corporation
 3 400 North 5th Street, MS 8695
 4 Phoenix, Arizona 85004
 5 Tel: (602) 250-3630
 6 Fax: (602) 250-3393
 7 E-Mail: Thomas.Loquvam@pinnaclewest.com
 8 Attorney for Arizona Public Service Company

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AZ CORP COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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Arizona Corporation Commission
DOCKETED

JUN 05 2015

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15 IN THE MATTER OF THE APPLICATION
 16 OF ARIZONA PUBLIC SERVICE
 17 COMPANY FOR APPROVAL OF NET
 METERING COST SHIFT SOLUTION.

DOCKET NO. E-01345A-13-0248

**ARIZONA PUBLIC SERVICE
COMPANY'S REPLY BRIEF**

I. THE COMMISSION HAS THE AUTHORITY TO HEAR AND DECIDE THIS MATTER NOW, IN THIS DOCKET AND OUTSIDE OF A RATE CASE.

20 With one predictable exception, all of the parties who responded to the question:
 21 "is there a portion of APS's April 2, 2015 Motion to Reset that **must** be considered in a
 22 rate case," reached the same conclusion.¹ And that is, the Commission has the authority
 23 and discretion under the law to decide and grant the Motion to Reset outside of a rate
 24 case.

25 For example, Commission Staff presented its analysis of the *Scates* case² and the
 26 Arizona Constitution to support the position that Arizona law does not require a rate

¹ Western Resource Advocates did not brief, and expressed no position on this question.

² *Scates v. Ariz. Corp. Comm'n*, 118 Ariz. 531, 578 P.2d 612 (1978).

1 case for the Commission to determine whether the LFCR should be reset—a position it
2 has expressed throughout this proceeding. Staff concluded “the Commission may
3 lawfully process APS’s Application outside a rate case”³ and “has the discretion to
4 decide how best to process the issues raised in APS’s filing.”⁴ “Staff agrees with APS
5 that the Commission has the discretion to determine how best to proceed with APS’s
6 Application”⁵ and that “[u]nder the circumstances presented by APS’s Application, the
7 Commission is not required to address this matter in a full rate case.”⁶

8 RUCO, the state agency tasked with representing the interests of residential
9 utility consumers in matters such as the Motion to Reset, also undertook a review of the
10 *Scates* case, the APS Settlement Agreement and the Commission’s Rules and
11 Regulations. RUCO correctly concluded, “there is no legal impediment which requires
12 the Commission to hear APS’ Motion outside of a rate case.”⁷ Recognizing the need
13 now for customer relief from the existing cost shift problem, RUCO further concluded
14 that it would be appropriate for the Commission to decide the Motion to Reset at this
15 time and that “[i]t would be counter-productive in the long run to continue to avoid the
16 issue and defer it to the next rate case.”⁸

17 The Arizona Solar Deployment Alliance, whose members are solar companies
18 doing business in Arizona, similarly stated, “[i]n 2013, APS went to the Commission
19 and adjusted its LFCR, not its net metering tariff. When that occurred, the Commission
20 contemplated the LFCR adjustment being reset before the next rate case. . . It is for these
21 reasons that ASDA believes APS’ Motion could be heard outside of a rate case.”⁹

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25 ³ Staff’s Brief Pursuant to April 28, 2015 Procedural Order at p. 1, lines 17-18.
26 ⁴ *Id.* at p. 1, lines 25-26.
27 ⁵ *Id.* at p. 6, lines 1-2.
28 ⁶ *Id.* at p. 4, lines 14-15.
⁷ RUCO’s Brief on Interim Net Metering Solution at p. 3, lines 20-21.
⁸ *Id.* at p. 4, lines 7-8.
⁹ Initial Brief at p. 2, lines 15-19.

1 Other solar industry representatives SEIA and AriSEIA, also concluded that, “the
2 Commission has discretion to fully deliberate this matter and pursue the most prudent
3 course of action at the most appropriate time.”¹⁰

4 The Arizona Competitive Power Alliance (the AzCPA), whose diverse
5 membership includes renewable and solar companies, likewise concluded: “The Arizona
6 Corporation Commission is not required to review any portion of APS’s April 2, 2015
7 filing in a rate case.”¹¹ The AzCPA undertook its own analysis of the *Scates* case and
8 concluded that “the Corporation Commission has the authority to make revenue neutral
9 rate changes without requiring a full-blown rate case and without relying on the classic
10 *Scates*’ exemptions of interim rates or adjuster mechanisms.”¹² Specifically addressing
11 the Motion to Reset, the AzCPA stated, “[h]ere the Commission not only established the
12 LFCR in a rate case, but established an LFCR adjustment procedure that requires the
13 company to submit, Staff to review and the Commissioners to opine on additional
14 evidence.”¹³ AzCPA concluded that “[t]he Commission is well within its authority to
15 make this adjustment outside the bounds of a rate case.”¹⁴

16 The lone outlier on this issue is TASC, which represents large for-profit solar
17 companies doing business throughout the United States. TASC misconstrued Arizona
18 law and proffered an unsupported legal conclusion that “it would be unconstitutional for
19 the Commission to move forward with this examination outside of APS’s next general
20 rate case.”¹⁵ TASC further declared: (1) no present cost shift exists;¹⁶ (2) “[d]ue process
21 has long been notable in this docket for its absence”;¹⁷ (3) the current Grid Access
22
23

24 ¹⁰ Initial Brief of the Joint Solar Parties at p. 2, lines 9-10.

25 ¹¹ Arizona Competitive Power Alliance Opening Brief on Interim Net Metering Solution at p. 1, lines
15-16.

26 ¹² *Id.* at p. 2, lines 4-6.

26 ¹³ *Id.* at lines 10-13.

26 ¹⁴ *Id.* at p. 3, lines 6-7.

27 ¹⁵ The Alliance for Solar Choice’s (TASC) Initial Brief (TASC Initial Brief) at p. 7, lines 1-2.

27 ¹⁶ *Id.* at p. 2, lines 3-4.

28 ¹⁷ *Id.* at p. 3, line 15.

1 Charge never received the legally required level of scrutiny,¹⁸ and (4) the Motion to
2 Reset asks the Commission to implement illegal single-issue ratemaking.¹⁹

3 The reality is, the Commission has already found (and TASC has previously
4 admitted) that a cost shift exists, the parties have been afforded due process throughout
5 the prior APS rate case and the proceedings in this and related dockets, the Grid Access
6 Charge has received more than sufficient scrutiny, and the Motion to Reset does not
7 implicate so-called “single-issue ratemaking” because, among other things, the Motion
8 will not increase APS’s revenue.

9 All of the credible analyses in the briefs that have been submitted demonstrate
10 that the Commission has the authority and the discretion to hear, decide and grant the
11 relief requested in the Motion to Reset now, outside of a rate case. And, as explained
12 herein, it is in the public interest that the Commission exercise its sound discretion to
13 hear and decide the Motion to Reset in this docket at this time.

14 **II. IT IS IN THE PUBLIC INTEREST FOR THE COMMISSION TO**
15 **DECIDE THE MOTION TO RESET NOW AND NOT WAIT FOR A**
16 **DISTANT FINAL RATE CASE ORDER.**

17 The Motion to Reset addresses a specific and defined problem. That is the
18 ongoing cost shift between DG solar and non-DG solar customers. The proposed
19 solution is a temporary one, intended to take another step in the right direction of
20 reallocating customer responsibility for annual LFCR revenue, in such a way as to be
21 revenue neutral, until a permanent solution can be ordered by the Commission in the
22 next APS rate case.

23 The need for a permanent solution is not disputed. In fact, APS, Staff and
24 virtually all other parties to this docket concur that a rate case is a proper venue for
25 determining a permanent solution. As APS has stated previously, “APS agrees with Staff
26 that more comprehensive and permanent solutions are available to address the cost shift
27 in a rate case. These solutions include demand-based charges, a type of charge that Staff

28 ¹⁸ *Id.* at p. 1, lines 24-25.

¹⁹ *Id.* at p. 1, lines 25-26.

1 has described as ideal for equitably distributing the costs and benefits of DG. But
2 waiting until all solutions are available is not necessary.”²⁰

3 APS further agrees with Commission Staff that in the final analysis, after the
4 parties have made their recommendations, it is the Commission that has the authority to
5 determine if it will hear and decide the Motion to Reset now. In determining whether to
6 decide the Motion to Reset now or wait until the next APS rate case, the Commission
7 should determine what is in the public interest.

8 When the analysis of public interest is properly focused on what is in the best
9 interest of APS’s **customers**, then the answer becomes clear. It is in the best interest of
10 APS’s **customers** to decide the Motion to Reset now, provide additional relief, and not
11 wait for the next APS rate case order. RUCO shed valuable light on this question from
12 the **customer’s** perspective:

13 RUCO is concerned that if the Commission defers until APS’ next rate case
14 to decide this issue, the cost shift will be so great that the potential impact
15 on new solar customers to address the cost shift could be cost prohibitive.
16 There is little doubt that the cost of solar has come down and the number of
17 solar sales has increased significantly. There is also no doubt that as the
18 number of solar sales continues to grow the cost shift to non-solar
19 customers continues to increase. It would be counter-productive in the long
20 run to continue to avoid the issue and defer it to the next rate case.²¹

21 APS has expressed similar concerns that waiting until its next rate case to address
22 the cost shift will have a negative impact on its **customers** and the Commission’s ability
23 to provide customers with full and adequate relief. APS stated:

24 APS is strongly inclined to prefer grandfathering. But the cost shift
25 continues to grow at a rapid pace. At some point, the cost shift might grow
26 to such an extent that grandfathering all existing DG customers will
27 significantly increase rates for all other non-DG customers. In that
28 circumstance, it might not be feasible for the Commission to grandfather
current DG customers. Resetting the Grid Access Charge now affords a
greater opportunity to protect current DG customers. Although, delay might
permit third-party solar providers to install more DG in the short term, it

²⁰ Arizona Public Service Company’s Initial Brief at pp. 11-12.

²¹ RUCO’s Brief on Interim Net Metering Solution at p. 4, lines 2-8.

1 would also increase the likelihood of not being able to grandfather current
2 DG customers in APS's next rate case.²²

3 How the Commission will address grandfathering is a critical issue for customers.
4 By addressing the issue now in the Motion to Reset, the Commission will preserve a full
5 range of options for a permanent solution to the cost shift in the next rate case.

6 There are significant and compelling customer-related reasons that support the
7 conclusion that hearing and deciding the Motion to Reset now is in the public interest.

8 Those reasons include, but are not limited to:

9 1. The unfair cost shift customers are experiencing exists today through
10 the LFCR and is ongoing.

11 2. APS's customers are bearing the brunt of the unfair cost shift now
12 and will continue to do so until a permanent solution is ordered in APS's
13 next rate case.

14 3. There is no certainty as to when a Commission order in APS's next
15 rate case will be issued to provide APS's customers with a permanent
16 remedy.

17 4. Between now and a Commission order in APS's next rate case, the
18 long-term cost shift not reflected in the LFCR will continue to grow
19 rapidly, a cost-shift that will permanently increase rates for APS customers
20 after APS's next rate case.

21 5. The Motion to Reset proposes an interim solution that is revenue
22 neutral and a gradual step towards a permanent remedy for APS's
23 customers.

24 6. If the Commission does not take action now, its available remedies
25 in a future rate case may be limited due to the practical challenges to
26 grandfathering customers.

27 7. The Commission anticipated additional relief for APS's customers
28 pending its next rate case and has already provided a forum and process for
such relief to be granted in this docket.

8. The interested parties are already joined in this proceeding, are
engaged in this issue and have expended substantial resources briefing the

²² Arizona Public Service Company's Initial Brief at p. 12, lines 11-19.

1 issues raised by the Motion to Reset. The findings and conclusions resulting
2 from this proceeding can help streamline APS's next rate case and its
pursuit of a final remedy for the cost shift.

3 Rather than focus on the impacts and consequences of the existing cost shift on
4 APS's customers, the solar representatives such as SEIA, AriSEIA, and TASC seem to
5 define public interest as actions that primarily promote their own interests in the Arizona
6 solar industry. In fact, AriSEIA states in its brief that its very mission is "to promote
7 policies that promote greater use of solar energy in Arizona."²³ While promoting solar
8 energy in Arizona is part of the public interest analysis, "solar energy" is more than just
9 rooftop solar, and promoting solar energy should not outweigh the best interests of
10 **customers**. The arguments of these solar industry representatives fail to consider the
11 reality and impact of the cost shift on **customers** and the consequences of their
12 proposals—and further delay—on **customers**. In fact, their arguments and
13 recommendations are contrary to the best interests of APS's customers, and
14 consequently are not in the public interest.

15 For example, the solar industry representatives criticize APS for not having
16 already filed a rate increase application in order to deal with the cost shift issue.²⁴ The
17 idea that a utility would file a rate case application prior to when it would need to do so
18 in the normal course, solely to advance a single rate design related issue, flies in the face
19 of public interest. To suggest that APS be required to do so, or should attempt to do so,
20 when a mechanism such as the Motion to Reset was previously outlined in a prior
21 Commission order, strains the bounds of common sense, and is contrary to the public
22 interest. It is hard to imagine how incurring the cost of a rate case and imposing new
23 rates on APS's customers sooner than the utility would have otherwise requested, simply
24 because a rate case was the chosen forum for the Motion to Reset, could be a benefit for
25 APS customers or in the public interest.

26
27 _____
²³ See Initial Brief of the Joint Solar Parties at p. 1, line 27.

28 ²⁴ *Id.* at p. 2, lines 20-21; *id.* at p. 3, lines 13-14.

1 The Commission should be on alert that if history is a prelude to the future, and
2 the Motion to Reset is dismissed and further relief postponed to APS's next rate case,
3 then representatives of the solar industry will likely argue there, as the Georgia Solar
4 Energy Industries Association (GSEIA) did before the Georgia Public Service
5 Commission that the issue cannot be resolved even in a general rate case absent the
6 findings of a separate "Value of Solar" proceeding.²⁵ In fact, SEIA and AriSEIA have
7 already tipped their hand in this regard by arguing that no decision on any matter related
8 to net metering (the Motion to Reset, APS's next rate case, *etc.*) can be issued until the
9 Commission concludes ACC Docket No. E-00000J-14-0023, the "Value and Cost of
10 Distributed Generation" proceeding.²⁶ Again, the impact of these delay-motivated
11 arguments and the consequences of their adoption are simply not geared towards
12 benefiting APS's customers and, therefore, cannot be deemed to be in the public interest.

13 Also, conspicuously absent from the briefs of the solar industry representatives is
14 the concern previously raised by APS, that the permanent, on-going cost shift may
15 preclude the Commission from being able to fashion a just and reasonable solution for
16 those customers who have been bearing the inequitable cost shift. This continuing and
17 permanent shift will only further complicate any decisions the Commission will make in
18 APS's next rate case regarding which customers, if any, should be grandfathered. By
19 ignoring this issue while advocating a delay in resolving the Motion to Reset, the solar
20 industry advocates are limiting the Commission's ability to fashion permanent relief to
21 the detriment of all customers. Simply stated, contrary to the arguments of the solar
22 industry, you cannot put off for some unspecified time the ongoing cost shift problem
23 and be acting in the public interest.

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26
27 ²⁵ *In re George Power Company's 2013 Rate Case*, GPSC Docket No. 36989; Direct Testimony of Karl
R. Rábago at p. 31, lines 13-16; attached hereto as Exhibit 1.

28 ²⁶ See Initial Brief of the Joint Solar Parties at p. 5, lines 9-10. Apparently, this "delay" strategy is
neither new nor unique to Arizona.

1 **III. CONCLUSION**

2 The Commission has the authority and discretion to hear and decide the Motion
3 to Reset now. Doing so is clearly in the public interest. A review of Decision No. 74202
4 reveals that the Commission has already wrestled with the question of delaying action
5 on the cost shift until APS's next rate case or taking interim action. The Commission
6 concluded that interim action is in the public interest. The Commission stated: "Staff
7 recommends that we defer these issues until APS's next rate case. Although we would
8 prefer to wait until a rate case to address these issues, the delay inherent in such an
9 approach would not serve the public interest."²⁷

10 The Motion to Reset, which seeks a revenue neutral adjustment to the Grid
11 Access Charge, is properly before the Commission at this time and in this docket. It
12 seeks a modest adjustment to the LFCR charge in order to alleviate some of the cost
13 shift being currently borne by APS's non-DG customers. It is an interim solution that
14 will enhance and not detract from the Commission's ability to fashion a permanent
15 remedy in APS's next rate case. Accordingly, APS requests that petitions for dismissal
16 of the Motion to Reset be denied and the Commission set a procedural schedule for the
17 hearing and decision on this matter as originally requested.

18 RESPECTFULLY SUBMITTED this 5th day of June 2015.

19
20 By: Muhom M. Krueger for
21 Thomas A. Loquvam

22 Attorney for Arizona Public Service Company
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27

28 ²⁷ Decision No. 74202 at p. 26, lines 10-12; *See also id.* at p. 27, lines 3-6, 19-22.

1 ORIGINAL and thirteen (13) copies
2 of the foregoing filed this 5th day of
3 June 2015, with:

4 Docket Control
5 ARIZONA CORPORATION COMMISSION
6 1200 West Washington Street
7 Phoenix, Arizona 85007

8 COPY of the foregoing mailed/delivered
9 this 5th day of June 2015 to:

10 Janice Alward
11 Legal Division
12 Arizona Corporation Commission
13 1200 W. Washington
14 Phoenix, AZ 85007

David Berry
Western Resource Advocates
P.O. Box 1064
Scottsdale, AZ 85252-1064

15 Bradley S. Carroll
16 Tucson Electric Power Company
17 88 East Broadway Blvd.
18 Mail Stop HQE910
19 P.O. Box 711
20 Tucson, AZ 85702

Giancarlo G. Estrada
Attorney
Kamper, Estrada and Simmons, LLP
3030 N. Third St., Suite 770
Phoenix, AZ 85012

21 Dwight Nodes
22 Acting Chief Administrative Law
23 Judge
24 Arizona Corporation Commission
25 1200 W. Washington
26 Phoenix, AZ 85007-2927

Steve Olea
Utilities Division
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

27 Albert Gervenack
28 Homeowner in Sun City West
14751 W. Buttonwood Drive
Sun City West, AZ 85375

Todd G. Glass
Attorney
Wilson, Sonsini Goodrich & Rosati,
P.C.
701 Fifth Ave., Suite 5100
Seattle, WA 98104

Hugh Hallman
Attorney
Hallman & Associates, PC
2011 N. Campo Alegre Rd., Suite
100
Tempe, AZ 85281

W.R. Hansen
President of PORA
Sun City West Property Owners
13815 W. Camino del Sol
Sun City West, AZ 85375

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Garry D. Hays
Attorney for ASDA
Law Offices of Garry D. Hays, PC
1702 E. Highland Avenue, Suite 204
Phoenix, AZ 85016

Mark Holohan
Chairman
AriSEIA
2221 W. Lone Cactus Drive, Suite 2
Phoenix, AZ 85027

Lewis M. Levenson
1308 E. Cedar Lane
Payson, AZ 85541

Kevin T. Fox
Keyes, Fox & Wiedman, LLP
436 14th Street, Suite 1305
Oakland, CA 94612

Greg Patterson
Attorney for Arizona Competitive
Power Alliance
Munger Chadwick
2398 E. Camelback Road, Suite 240
Phoenix, AZ 85016

Court S. Rich
Attorney for TASC
Rose Law Group pc
7144 East Stetson Drive, Suite 300
Scottsdale, AZ 85251

Erica Schroeder
Attorney
Keyes, Fox & Weidman, LLP
436 14th Street, Suite 1305
Oakland, CA 94612

Timothy Hogan
Attorney for WRA
Arizona Center for Law in the Public
Interest
202 E. McDowell Road, Suite 153
Phoenix, AZ 85004

Patty Ihle
304 E. Cedar Mill Road
Star Valley, AZ 85541

Tim Lindl
Attorney
Keyes, Fox & Wiedman LLP
436 14th Street, Suite 1305
Oakland, CA 94612

Michael W. Patten
Attorney
SNELL & WILMER L.L.P.
One Arizona Center
400 E. Van Buren Street, Suite 1900
Phoenix, AZ 85004-2202

Daniel Pozefsky
Chief Counsel
RUCO
1110 W. Washington, Suite 220
Phoenix, AZ 85007

Kristin K. Mayes
Attorney for SEIA
3030 N. 3rd Street, Suite 200
Phoenix, AZ 85012

John Wallace
Grand Canyon State Electric
Cooperative Association, Inc.
2210 S. Priest Drive
Tempe, AZ 85282

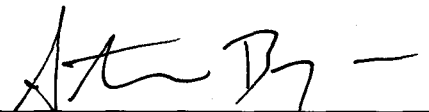


Exhibit 1

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF GEORGIA

In Re: :
Georgia Power Company's : DOCKET NO. 36989
2013 Rate Case :
:

DIRECT TESTIMONY

OF

KARL R. RABAGO

Presented on behalf of the
Georgia Solar Energy Industries Association

OCTOBER 18, 2013

Galloway & Lyndall, LLP
The Lewis-Mills House
406 North Hill Street
Griffin, Georgia 30223

1 Commission ordered the Company to do in the IRP proceeding.⁵

2

3 Q. How does your recommendation impact the Company's
4 SPS-1 tariff proposal?

5 A. The Company is implicitly attempting to establish
6 a solar avoided cost rate in this docket, as it appears in
7 the calculations used to establish the SPS-1 and correlated
8 TOU rates. But, there was no the public process, evidence,
9 and evaluation required for sound ratemaking. Given the
10 Commission's direction to the Company in the IRP
11 proceeding, the Company should not be permitted to
12 peremptorily use this docket and its proposed SPS-1 tariff
13 to posture its required IRP cost filing in advance. The
14 Commission should deny the Company's request to implement
15 SPS-1 in this docket and defer its consideration to the
16 solar avoided cost proceeding anticipated in the IRP Order.

17

18

VALUE OF SOLAR ANALYSIS

19 Q. What is VOS analysis?

20 A. I testified on VOS analysis in the IRP Docket
21 earlier this year. VOS analysis is, in essence, a full

⁵ Correction to Order, Docket No. 36498, p. 3 ("ORDERED FURTHER, that no bids for the Utility Scale solar shall be accepted which exceed Georgia Power's projected levelized avoided cost for the term of the PPA. Such avoided cost will be established and announced by Georgia Power Company, and approved by the Commission prior to beginning the RFP process.").