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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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

DOCKET NO. E-01345A-13-0248

ORIGINAL

Arizona Competitive Power Alliance

Opening Brief on Interim Net Metering Solution

The Arizona Corporation Commission is not required to review any portion of APS's April 2, 2015 filing in a rate case.

Over the last 30 years, it seems that entire forests have been cleared in order to provide enough paper for attorneys to argue whether or not specific adjuster clauses have been structured in order to provide an exemption to Scates' "single-issue rate making" prohibition. This brief is no exception. However in an effort to avoid having the Adjuster tail wag the Fair Value dog, the AzCPA will first focus on two aspects of Scates that get less notice: The Commission's decision in the underlying rate case provided 1) a substantial revenue increase 2) without any inquiry whatsoever into how the increase would affect the rate of return. (Scates v. Arizona Corporation Commission 578 P.2d 612.)

1 Here, the company's proposed adjustment to the LFCR is revenue neutral. Additionally, the
2 Commission reviewed substantial evidence and concluded in Decision number 74202 that the
3 \$3.00 per KW charge was reasonable for DG customers. The AzCPA believes that upon review
4 of evidence, the Corporation Commission has the authority to make revenue neutral rate changes
5 without requiring a full-blown rate case and without relying on the classic Scates' exemptions of
6 interim rates or adjuster mechanisms.
7

8 Be that as it may, in the case at hand, the Commission did establish the LFCR adjuster
9 mechanism in a full rate case. Furthermore, the Scates conjecture envisioned the
10 Constitutionality of the more problematic "automatic" rate adjuster mechanism. Here the
11 Commission not only established the LFCR in a rate case, but established an LFCR adjustment
12 procedure that requires the company to submit, Staff to review and the Commissioners to opine
13 on additional evidence.
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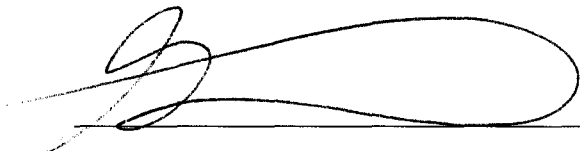
15 The AzCPA believes that the Corporation Commission's powers are very broad and the Scates'
16 restrictions are quite narrow. In that case, the Commission provided a substantial rate increase
17 based on a single issue and specifically rejected any evidence of other financial issues. Even
18 under this rather rare and egregious fact pattern the Scates court was quick to provide exceptions
19 in the form of interim rates or adjustment clauses. Parties over the years have attempted to
20 narrow the Constitutional authority of the Commission by converting the ruling on this
21 extraordinary fact pattern into a Mantra that Scates prevents "Single-issue rate making." While
22 that Mantra may provide convenient shorthand, it should not be used to replace the actual
23 requirements of the case. In actuality, Scates recognized that the Commission has authority to
24 make substantial changes to a company's rate structure even in the absence of a full-blown rate
25
26

1 case. The current case provides an excellent example: In its April 2nd 2015 filing APS proposes
2 that the Corporation Commission make a revenue neutral adjustment to an adjuster mechanism
3 that was established in a previous rate case. This after the Commission has already considered
4 substantial evidence and concluded nearly a year ago that the adjustment APS proposes is
5 reasonable. The Commission is well within its authority to make this adjustment outside the
6 bounds of a rate case.
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15 RESPECTFULLY SUBMITTED this 22nd day May, 2015.
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