



BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

COMMISSIONERS  
Susan Bitter Smith, Chairman  
Bob Burns  
Tom Forese  
Doug Little  
Bob Stump

Arizona Corporation Commission  
**DOCKETED**  
MAY 22 2015

2015 MAY 22 P 3:12  
AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY

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**

**INITIAL BRIEF OF THE JOINT SOLAR PARTIES**

The Solar Energy Industries Association (SEIA)<sup>1</sup> and the Arizona Solar Energy Industries Association (AriSEIA)<sup>2</sup> submit this initial brief in response to the April 28, 2015, Procedural Order in this docket.

**I. Considering APS' April 2<sup>nd</sup> filing prior to a rate case does not serve the public interest**

The April 28<sup>th</sup> Procedural Order asked "whether any portion of APS' April 2, 2015 filing must be considered in a rate case." SEIA and AriSEIA believe that APS' filing must be considered in a rate case to avoid the potential for rates that are unjust and unreasonable. As the Arizona Supreme Court found in *Scates*, piecemeal approaches to setting rates are "fraught with potential abuse."<sup>3</sup> Moreover, nearly every party to this proceeding (including the Commission)<sup>4</sup> other than APS has expressed a preference for handling this issue in a rate case. Thus, we believe the

<sup>1</sup> SEIA is the national solar energy trade association. The comments contained in this filing represent the  
<sup>2</sup> AriSEIA is a nonprofit trade association, representing local and national companies whose mission is to promote policies that promote greater use of solar energy in Arizona.  
<sup>3</sup> *Scates v. Arizona Corp. Comm'n*, 118 Ariz. 531, 573 P.2d 612 (App. 1978).  
<sup>4</sup> See Decision No. 73183, page 26, P 99.

1 Commission must consider the April 2<sup>nd</sup> proposal in a rate case since doing so is the best way to  
2 serve the public interest.

3  
4 **II. The Commission has no obligation to consider APS' April 2<sup>nd</sup> filing prior to a rate case**

5 SEIA and AriSEIA submit that no portion of APS' filing *must* be considered prior to a rate case.  
6 Under Arizona's Constitution, the Commission has broad authority to set utility rates and  
7 charges.<sup>5</sup> This includes the ability to dismiss a rate application or defer it until a more  
8 appropriate time (e.g. during a rate case).<sup>6</sup> Thus, the Commission has discretion to fully  
9 deliberate this matter and pursue the most prudent course of action at the most appropriate time.  
10

11 **III. APS proposal would deny the Commission and the parties the opportunity to address**  
12 **the merits of NEM on the basis of full facts**

13  
14 Both APS' 2013 Application and its April 2, 2015, filing hinge on the notion that the cost shift  
15 issue is an urgent problem that cannot wait to be addressed in its next rate case. This line of  
16 reasoning may have been credible in the 2013 application since APS was then subject to the stay-  
17 out provision of its 2012 Rate Case Settlement Agreement.<sup>7</sup> However, this claim is no longer  
18 valid. SEIA and AriSEIA note that April 2, 2015, is the exact same day that APS would have  
19 been eligible to file its 60-day Notice of Intent to File a Rate Case under its 2012 Settlement  
20 Agreement. This underscores the fact that APS had a clear choice: either to file its "Motion to  
21 Reset," or to file a general rate case. APS chose the former, in spite of the fact that most  
22 parties to this proceeding, including the Commission, have agreed that a rate case is the best  
23 venue to hear this matter. A rate case would allow for more complete evidence to be entered  
24 into the record and for a more robust toolbox of solutions. Moreover, the Commission even  
25 suggested in Decision No. 74202 that APS should make its next rate filing as soon as  
26

27 <sup>5</sup> See Article 15, Sec. 3

28 <sup>6</sup> This is further clarified in R14-3-109 of the Commission's Rules of Practice and Procedure

<sup>7</sup> Decision No. 73183

1 possible.<sup>8</sup> Now that the preferred rate case option is available, it's unclear why APS would  
2 make a concerted effort avoid it. Some possible reasons APS might have incentive to delay a  
3 rate case include:

- 4 • The utility is currently overearning;
- 5 • A desire to decrease the ability of the solar industry to participate in addressing these  
6 issues utilizing rate design;
- 7 • A desire to wait for large new investments to come online so they can be included in  
8 rate-base.

9 Whatever the reasons, APS appears to want it "both ways:" on the one hand the company is  
10 claiming that there is an urgent problem and a rate case can't come soon enough to resolve it.  
11 On the other hand, the Company appears to be trying to avoid a rate case, even though there  
12 is broad agreement that this would be the ideal venue for resolving this issue. If APS were  
13 sincere about seeking a robust solution for its customers, it would file a rate case as soon as  
14 possible.  
15

#### 16 **IV. APS' motion relies on disputed facts that can only be resolved in a rate case**

17 SEIA and AriSEIA believe the purported urgency of this matter is also overstated in terms of the  
18 size of the cost shift that APS claims. In support of its motion, APS' claims that "evidence in this  
19 docket shows, each DG installation shifts approximately \$804 annually" and uses this fact to  
20 justify accelerated action prior to a rate case. SEIA and AriSEIA dispute the \$804 figure as fact,  
21 and recognizes that other parties to this proceeding found the cost shift to be significantly lower  
22 and in some cases even negative.<sup>9</sup> The true urgency of any cost shift problem is directly tied to  
23 the veracity of these numbers. However, the veracity of APS' claims can only be adequately  
24 resolved through a rate case in which the utility's costs are clearly identified and allocated.  
25

26  
27 <sup>8</sup> Decision No. 74202, P 56

28 <sup>9</sup> See Crossborder Energy, *The Benefits and Costs of Solar Distributed Generation for Arizona Public Service*, dated May 8, 2013, and filed in this docket on July 2, 2013.

1 **V. APS' request attempts to extend the interim solution beyond the period the Commission**  
2 **intended**

3 It's clear from Decision No. 74202 that the Commission contemplated the LFCR DG adjustment  
4 to be a temporary measure that would only be in effect until APS' next full rate case had  
5 concluded.<sup>10</sup> It's also clear that the Commission expected the time until APS' next rate filing to  
6 be relatively short, stating that it "will require APS to file at the earliest date consistent with our  
7 order in Decision No. 73183."<sup>11</sup> SEIA and AriSEIA recognize that this filing requirement was  
8 subsequently modified,<sup>12</sup> however the Commission gave no indication in this Order that it would  
9 consider subsequent LFCR DG proposals in lieu of rate cases indefinitely. As noted earlier, APS  
10 was eligible to file its 60-day Notice on April 2, 2015. Thus, at the time of APS April 2<sup>nd</sup> filing,  
11 the window of time for considering further adjustments to the LFCR DG – as originally  
12 contemplated – would have been nearing its end. It's not clear that the Commission anticipated  
13 considering any further LFCR DG adjustments in this proceeding beyond the point in time when  
14 rate case could be filed. Indeed, Decision No. 74202 concluded "it is in the public interest to  
15 consider these matters further in Arizona Public Service Company's next general rate case."<sup>13</sup>  
16 Thus, SEIA contends that APS' Motion is not in the public interest and is not aligned with the  
17 findings and conclusions of the Commission in Decision No. 74202.  
18

19 **VI. It is premature for any Arizona utility to alter its net metering rates for solar customers**  
20 **before the Commission's Value of Distributed Generation (DG) proceeding has concluded**

21 Inherent in APS' proposal are many assumptions about how unrecovered fixed costs from DG  
22 are ultimately shifted to non-DG customers. This narrow focus on costs does not capture any  
23 potential benefits that are also transferred to non-DG customers and may serve to offset some or  
24 all of the alleged cost-shift. A truly equitable treatment of APS' members would consider the  
25

26 \_\_\_\_\_  
27 <sup>10</sup> Decision No. 74202, Page 23, P 81

<sup>11</sup> *Id.* at Page 27, P 104;

<sup>12</sup> See Decision No. 74702

<sup>13</sup> See Decision No. 74202, Page 28, P 3

1 full spectrum of costs *and* benefits that DG provides. Pursuant to Decision No. 74202, the  
2 Commission established the Value of DG proceeding<sup>14</sup> specifically to address these types of  
3 questions and to “help inform future Commission policy on the value and costs that Distributed  
4 Generation brings to the grid.”<sup>15</sup> However, this proceeding has not concluded, nor has the  
5 Commission issued any decisions or guidance as part of this investigation. Any decisions to alter  
6 tariffs for solar customers fundamentally reflect the Commission’s perspective on the value of  
7 distributed generation. Thus the conclusions of the Value of DG proceeding are a critical input to  
8 any such decision. Therefore, SEIA believes it is premature to hear APS’ motion – or any other  
9 application related to net metering – until the Value of DG proceeding has concluded.  
10

11  
12  
13 **VII. Conclusion: the most prudent option is to defer this proposal to a rate case**

14 Nearly every party to this proceeding<sup>16</sup> other than APS prefers this for this issue to be heard  
15 in a rate case, including the Commission. A rate case would provide a more complete body  
16 of evidence than this proceeding has been able to offer to date and would also provide a more  
17 complete toolbox of solutions. The Commission already stated its preference to ultimately  
18 resolve this issue in a rate case, and concluded that it would be in the public interest to do  
19 so.<sup>17</sup> There is no obligation for the Commission to consider this proposal prior to the rate  
20 filing. Additionally, there is currently no restriction on APS filing a Notice of Intent to File a  
21 Rate Case. For all of these reasons, SEIA believes the Commission must only consider APS’  
22 April 2, 2015 motion in a rate case.  
23

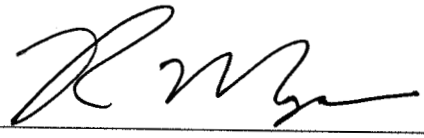
24  
25 <sup>14</sup> Docket No. E-00000J-14-0023

26 <sup>15</sup> Decision No. 74202, Finding of Fact No. 53

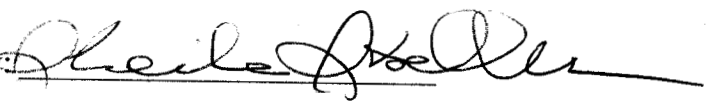
27 <sup>16</sup> A partial list of Parties supporting the rate case option include: Arizona Corporation Commission Staff  
28 (Staff), The Alliance for Solar Choice (TASC), Arizona Solar Deployment Alliance (ASDA), Arizona  
Residential Utility Consumers Office (AZRUCO), Solar Energy Industries Association (SEIA), Western  
Resource Advocates (WRA), Interstate Renewable Energy Council (IREC), Arizona Solar Energy  
Industries Association (AriSEIA),

<sup>17</sup> *Id.*

1 Respectfully submitted this 22nd day of May 2015,

2  
3 

4  
5 Kristin K. Mayes  
6 3030 N. Third St., Suite 200  
7 Phoenix, Arizona 85012  
8 Attorney for the Solar Energy Industries Association

9  
10 By: 

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **Original and 13 copies of the foregoing filed this 22nd day of May, 2015 with:**

2 Docket Control  
3 Arizona Corporation Commission  
4 1200 W. Washington Street  
5 Phoenix, Arizona 85007

6 *Copy of the foregoing delivered/mailed this 22<sup>nd</sup> day of May, 2015, to:*

7 Janice Alward  
8 Legal Division  
9 Arizona Corporation Commission  
10 1200 West Washington Street  
11 Phoenix, AZ 85007

12 Dwight Nodes  
13 Administrative Law Judge  
14 Arizona Corporation Commission  
15 1200 West Washington Street  
16 Phoenix, AZ 85007

17 Steven Olea, Director  
18 Utilities Division  
19 Arizona Corporation Commission  
20 1200 West Washington  
21 Phoenix, AZ 85007

22 Michael Patten  
23 Snell & Wilmer L.L.P.  
24 One Arizona Center  
25 400 East Van Buren Street  
26 Phoenix, Arizona 85004

27 COASH & COASH  
28 1802 North 7th Street  
Phoenix, Arizona 85006

Michael Curtis  
501 East Thomas Road  
Phoenix, Arizona 85012-3205

Garry Hays  
1702 East Highland Avenue, Suite 204  
Phoenix, Arizona 85016

- 1 Court Rich  
7144 E. Stetson Drive, Suite 300  
2 Scottsdale, Arizona 85251
- 3  
4 Robyn Interpreter  
Susan B. Montgomery  
5 Montgomery & Interpreter, PLC  
4835 East Cactus Road, Suite 210  
6 Scottsdale, Arizona 85254
- 7 Robert Hall  
8 4809 Pier Mountain Place  
Marana, Arizona 85658
- 9  
10 Vincent Nitido  
8600 West Tangerine Road  
11 Marana, Arizona 85658
- 12 Paul O'Dair  
13 Navopache Electric Cooperative, Inc.  
1878 W. White Mtn. Blvd.  
14 Lakeside, Arizona 85929
- 15 Peggy Gillman  
16 Mohave Electric Cooperative, Inc.  
P.O. Box 1045  
17 Bullhead City, Arizona 86430
- 18 J. Tyler Carlson  
19 P.O. Box 1045  
Bullhead City, Arizona 86430
- 20  
21 Mark Holohan, Chairman  
Arizona Solar Energy Industries Assn.  
2221 W. Long Cactus Drive, Ste. 2  
22 Phoenix, AZ 85027
- 23  
24 Bradley Carroll  
Tucson Electric Power Company  
25 88 East Broadway, MS HQE910  
P. O. Box 711  
26 Tucson, AZ 85702
- 27 Tim Lindl  
28 Keyes, Fox & Wiedman LLP



1 436 14th St. - 1305  
2 Oakland, California 84612

3 Timothy Hogan  
4 514 West Roosevelt  
5 Phoenix, Arizona 85003

6 Thomas Loquvam  
7 400 N. 5Th St, MS 8695  
8 Phoenix, Arizona 85004

9 Greg Patterson  
10 Water Utility Association of Arizona  
11 916 W. Adams, Suite 3  
12 Phoenix, Arizona 85007

13 Daniel Pozefsky  
14 1110 West Washington, Suite 220  
15 Phoenix, Arizona 85007

16 David Berry  
17 Western Resource Advocates  
18 P.O. Box 1064  
19 Scottsdale, Arizona 85252-1064

20 Hugh Hallman  
21 Hallman & Affiliates, PC  
22 2011 N. Campo Alegre Rd. - 100  
23 Tempe, Arizona 85281

24 John Wallace  
25 2210 South Priest Dr  
26 Tempe, Arizona 85282  
27 Albert Gervenack  
28 14751 W. Buttonwood Drive  
Sun City West, Arizona 85373

W.R. Hansen, President  
Property Owners and Residents Assoc.  
13815 W. Camino del Sol  
Sun City West, Arizona 85375

Lewis Levenson  
1308 E. Cedar Lane  
Payson, Arizona 85541

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Patty Ihle  
304 E. Cedar Mill Rd  
Star Valley, Arizona 85541

Anne Smart  
Alliance for Solar Choice  
45 Fremont Street, 32nd Floor  
San Francisco, California 94105

Kevin Fox  
Keyes & Fox LLP  
436 14th St. - 1305  
Oakland, California 94612

Erica Schroeder  
436 14th Street  
Suite 1305  
Oakland, California 94612

Todd Glass  
Wilson Sonsini Goodrich & Rosati, PC  
701 Fifth Ave. - 5100  
Seattle, Washington 98104