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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

- SUSAN BITTER SMITH - Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

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

PROCEDURAL ORDER (Sets Briefing Schedule and Oral Argument)

BY THE COMMISSION:

On April 2, 2015, Arizona Public Service Company ("APS") filed with the Arizona Corporation Commission ("Commission") in this docket a request that the Lost Fixed Cost Recovery ("LFCR") mechanism adjustment authorized by Decision No. 74202 (December 3, 2013) be reset, from \$.70 per kW to \$3 per kW, effective August 1, 2015.

Background

On July 12, 2013, APS filed with the Commission in this docket an application for approval of Net Metering Cost Shift Solution.

Intervention has been granted to Lewis M. Levenson, Arizona Solar Deployment Alliance, Arizona Competitive Power Alliance, Patty Ihle, Tucson Electric Power ("TEP") and UNS Electric, Inc. ("UNSE"), the Residential Utility Consumer Office ("RUCO"), The Alliance for Solar Choice ("TASC"), Solar Energy Industries Association, Western Resource Advocates ("WRA"), the Interstate Renewable Energy Council, Inc. ("IREC"), Arizona Solar Energy Industries Association, and Sun City West Property Owners and Residents Association.

Numerous public comments and stakeholder filings were made regarding APS's July 12, 2013 application.

On September 30, 2013, the Commission's Utilities Division ("Staff") filed a Memorandum and Proposed Order. The Proposed Order outlined proposals in the proceeding proffered by APS, TASC, RUCO, and IREC. Staff recommended that the Commission take no action on APS's July 12,

1 2013 application, and instead defer the matter for consideration during APS's next rate case. Staff
2 also recommended that the Commission open a generic docket on the net metering issue to
3 investigate the currently non-monetized benefits of distributed generation ("DG") with the goal of
4 developing a methodology for assigning DG values.

5 On December 3, 2013, the Commission issued Decision No. 74202. Decision No. 74202
6 stated that the issues presented by APS's July 12, 2013 application would likely need to be addressed
7 and considered in APS's next rate case filing,¹ but found that an interim adjustment to APS's LFCR
8 mechanism would address cost shift in a revenue neutral manner by reducing the amount of lost fixed
9 costs APS must collect from residential customers without DG.²

10 Decision No. 74202 ordered APS to implement a \$.70 per kW per month interim LFCR DG
11 adjustment for all residential DG installations not on APS's ECT-2 rate after December 31, 2013; that
12 the LFCR DG adjustment would not apply to residential DG customers who already had a DG system
13 installed, or who had submitted a signed contract with a solar installer to APS by December 31, 2013;
14 that customers who signed a contract with an installer after December 31, 2013, and became subject
15 to the \$.70 per kW per month interim LFCR DG adjustment, shall be grandfathered at the \$.70 per
16 kW per month charge until APS's next rate case, at which time the charge may be increased,
17 decreased, left as is, or eliminated; and that if the Commission subsequently modifies the \$.70 per
18 kW per month interim LFCR DG adjustment, the new adjustment shall apply only to new DG
19 customers who sign a contract after any modified adjustment is adopted by the Commission, until
20 APS's next rate case decision. Decision No. 74202 also implemented new disclaimer language for
21 APS to require residential customers owning or leasing an interconnecting rooftop solar system to
22 sign as part of the interconnection process.

23 As recommended by Staff, Decision No. 74202 ordered the opening of a generic investigative
24 docket on the net metering issue, and the holding of workshops in the generic docket, to help inform
25 future Commission policy on the currently non-monetized benefits of DG installations to the grid,
26

27 _____
28 ¹ Decision No. 74202 at 14, Findings of Fact No. 56.

² Decision No. 74202 at 23, Findings of Fact No. 80.

1 with the goal of developing a methodology for assigning DG values.³ In addition to the Staff
2 recommendation regarding the generic docket, Decision No. 74202 further specified that:

3 [t]he workshops shall be based upon the Commission's determination of the presence
4 of a cost shift from DG customers to non DG residential customers, and shall provide
5 for the Commission's future full consideration of the net metering cost shift issue, the
6 development of a method(s) by which the value of DG can be considered in balancing
the public interest, and the evaluation of the role and value of the electric grid as it
relates to rooftop solar, other forms of distributed generation, and customer-sited
technology generally.⁴

7 Decision No. 74202 ordered APS to file its next general rate case in June 2015, consistent
8 with the provisions of Decision No. 73183 (May 24, 2012).

9 On July 22, 2014, at a Staff Open Meeting of the Commission, the Commission voted to
10 reopen Decision No. 74202 pursuant to A.R.S. § 40-252 in order to consider the possibility of
11 removing the requirement that APS file its next general rate case in June 2015.

12 On July 25, 2014, then-Chairman Stump filed a letter in the docket indicating that the issue of
13 removing the requirement that APS file its next general rate case in June 2015 would be brought to
14 the Open Meeting scheduled for August 12-13, 2014, inviting written comments in the docket, and
15 indicating that an opportunity to be heard would be provided.

16 On August 12, 2014, the Commission voted at an Open Meeting to remove the requirement
17 that APS file its next general rate case in June 2015.

18 On August 21, 2014, the Commission issued Decision No. 74702 in this docket, which
19 ordered that Decision No. 74202 is modified to delete the Ordering Paragraph requiring APS to file
20 its next general rate case in June 2015. Decision No. 74702 ordered that all other aspects of Decision
21 No. 74202 remain in effect.

22 **APS's Filing**

23 On April 2, 2015, APS made its filing requesting that the LFCR Adjustment authorized by
24 Decision No. 74202 be reset, from \$.70 per kW to \$3 per kW, effective August 1, 2015. APS states
25 that Findings of Fact No. 84 in Decision No. 74202 found \$3 per kW reasonable, but initially set a
26 lower amount, and that Findings of Fact No. 85 in Decision No. 74202 states that the Commission

27 ³ Generic Docket No. E-00000J-14-0023 (*In the Matter of the Commission's Investigation of Value and Cost of*
Distributed Generation) was opened on January 24, 2014.

28 ⁴ Decision No. 74202 at 30.

1 may periodically adjust the charge in any APS LFCR proceeding. APS contends that resetting the
2 LFCR would be revenue neutral, apply only to customers who install rooftop solar after the effective
3 date of a Commission Decision, and would make incremental progress in addressing “a looming \$800
4 million cost shift.” APS believes that adjusting the LFCR to \$3 per kW will not fully address the cost
5 shift issue, and that resolving the issue for the long term requires updating rate design in APS’s rate
6 case, in a manner that is fair for all customers.⁵ APS asserts that making the LFCR adjustment prior
7 to its next rate case would reduce the overall amount of cost shifting to be addressed in its next rate
8 case.

9 **RUCO’s Response**

10 On April 17, 2015, RUCO filed a Response to APS’s April 2, 2015 filing. On the same date
11 RUCO separately filed an “Exhibit 1,” consisting of a copy of a letter to then-Commissioner Brenda
12 Burns describing RUCO’s study results, which RUCO filed in this docket on November 8, 2013.
13 RUCO states in its Response that it believes a rate case is where the net metering issue will need to
14 be addressed for the long term, and that it would support a determination to defer the matter to APS’s
15 next rate case. RUCO opines that, in light of the fact that APS was not required to file a rate case in
16 2015, it is appropriate for the Commission to address the issue now. RUCO states that it intends to
17 complete an in-depth analysis to supplement its prior study, and to offer its findings and policy
18 proposals to the Commission and stakeholders. RUCO recommends that a hearing be held, and that
19 the inquiry into the value of DG in Generic Docket No. E-00000J-14-0023 be concluded prior to such
20 hearing, or prior to APS’s next rate case, if the issue will be considered there instead.

21 **Staff’s Request for Procedural Order**

22 Also on April 17, 2015, Staff filed a Request for Procedural Order. In response to APS’s
23 April 2, 2015 filing, Staff states that it stands by the position it asserted in the proceeding that led to
24 Decision No. 74202, which is that the cross-subsidy issue APS raised “has explicit public policy
25 considerations, and therefore would be most appropriately addressed in the setting of a general rate
26 case.” Staff states that Decision No. 74202 found that once the costs and benefits of DG have been

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28 ⁵ APS also states that DG customers have the option to avoid any LFCR adjustment and save money if they take service under APS’s demand-based ECT-2 rate, control their consumption, and reduce their demand.

1 adequately quantified and valued, their allocation is a matter of rate design, and that the development
2 of equitable rate structures that address the disconnect between net metering and volumetric rates can
3 best be accomplished in a general rate case. Staff contends that APS's April 2, 2015 filing does not
4 explain why Commission action on the issue could not wait until APS files its next rate case, and
5 points out that any determination in this docket is likely to be issued not long before the time APS
6 files its next rate case, where the issues will all be examined again.

7 Pointing out that APS acknowledges in its April 2, 2015 filing that any fix the Commission
8 adopts in this proceeding will be a short term fix, Staff recommends that APS withdraw its April 2,
9 2015 filing so that the Commission may consider the matters more holistically in a rate case. Staff
10 recommends that if APS is not amenable to voluntarily withdrawing the filing, that a briefing
11 schedule be established on the issue of whether the filing should be dismissed. Staff proposes a
12 briefing schedule whereby Initial Briefs are filed on May 22, 2015, Responsive Briefs are filed on
13 June 5, 2015, Oral Argument scheduled for a date to be determined, and that a Recommended
14 Opinion and Order ("ROO") is prepared for the Commission's consideration on the issue of whether
15 APS's April 2, 2015 filing should be dismissed. Staff requests that a Procedural Order be issued
16 categorizing and treating the April 2, 2015 filing as an application, setting forth a briefing schedule
17 on any motions to dismiss the application and oral argument, and placing the Commission's ex parte
18 rule into effect.

19 **WRA's Response**

20 On April 21, 2015, WRA filed its Response to APS's April 2, 2015 filing. WRA opposes
21 APS's request to increase the LFCR adjustment in this docket, and contends that any reallocation of
22 fixed costs should occur in a rate case. WRA is concerned that without knowing when APS will file
23 its next rate case, granting APS's current request could lead to future summary treatment again
24 without benefit of the detailed analysis that the Commission determined would be beneficial in
25 Decision No. 74202. WRA asserts that it is time to address the issue of any cost shift in a
26 comprehensive fashion, and APS's filing does not do so. WRA points out that none of the issues
27 addressed in Decision No. 74202 were subject to an evidentiary hearing. WRA contends that an
28 evidentiary hearing would allow the parties to subject APS's proposal to scrutiny, and that it is only

1 in a full rate case that the Commission will have the opportunity to analyze all of APS's costs,
2 alternative cost of service methodologies, and rate design issues. WRA states that the question of
3 whether a cost shift occurs between DG and non-DG customers, and the magnitude, if any, of that
4 cost shift, has never been subject to the rigorous analysis that occurs during an evidentiary hearing in
5 a rate case, and expresses concern that the relief requested in APS's filing is designed to bypass that
6 process and rely on a disputed record that is now stale. WRA believes that deferring the issue in
7 APS's filing to its next rate case will allow coordination with other proceedings in pending TEP,
8 Trico Electric, and UNSE proceedings addressing similar issues, and a fair application of
9 Commission policy.

10 **TASC's Response**

11 Also on April 21, 2015, TASC filed its Response to APS's April 2, 2015 filing. TASC
12 opposes the procedure APS proposed in its April 2, 2015 filing and requests that the filing be
13 dismissed. TASC believes that the issues raised are properly considered in a rate case. TASC
14 contends that there is no current and growing cost shift as APS alleges in its filing, and that that APS
15 has failed to prove its allegations. TASC asserts that the filing's request constitutes single issue
16 ratemaking in violation of the Arizona Constitution, that the LFCR issues were raised and resolved in
17 the Settlement Agreement approved by Decision No. 73183 (May 24, 2012), and that APS therefore
18 cannot be allowed to re-litigate those settled issues in this docket. TASC argues that even if APS's
19 filing were otherwise permissible, it is untimely, because the Settlement Agreement only permits a
20 single annual adjustment to the LFCR, which has already occurred for 2015. TASC asserts that
21 APS's filing requests action that contravenes the ratemaking principles of certainty and gradualism
22 by surprising the solar industry and its customers with a large and unexpected fee increase, and would
23 result in a waste of judicial resources, because the issues would be revisited in APS's next rate case.
24 TASC further alleges that the relief requested in the filing raises issues regarding APS's
25 commitments to cost parity set forth in Decision No. 74878 (December 23, 2014).

26 ...

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28 ...

1 APS's Response to Staff's Request for Procedural Order

2 On April 23, 2015, APS filed its Response to Staff's Request for Procedural Order. APS
3 contends that its filing was properly styled as a motion, because "it only seeks a reset" of what it now
4 terms a "Grid Access Charge." APS asserts that its filing was contemplated by Decision No. 74202,
5 and that it seeks no new mechanism or new form of relief. APS states that while it agrees with Staff
6 that the Commission can implement demand based rates, it also agrees with the Commission's
7 finding in Decision No. 74202 that it is unfair for DG customers to contribute less to the recovery of
8 APS's annual LFCR than non-DG customers. APS opts not to withdraw its filing, asserting that "the
9 decision to afford non-DG customers additional interim relief is one of policy," which APS asserts
10 the Commission should make. APS states that if Staff's proposed briefing schedule is accepted, APS
11 will respond to substantive issues raised by the parties' filings in its brief. APS proposes that Oral
12 Argument would be appropriate in mid-June. APS opposes Staff's recommendation that a ROO be
13 prepared following Oral Argument for the Commission's consideration.

14 Briefing and Oral Argument Schedule

15 A review of the entire record in this proceeding establishes that there is clearly a need for an
16 evidentiary hearing on the issues raised in APS's April 2, 2015 filing. Decision No. 74202 was
17 issued in contemplation of a full vetting of the "cost shift" issues raised by the instant filing in APS's
18 next general rate case, ordered to be filed in June 2015 pursuant to Decision No. 73183. The
19 Commission's subsequent determination in Decision No. 74702 to remove the requirement for APS
20 to file a rate case in June 2015 did not change the need for examination of the "cost shift" issue in a
21 manner that will allow all interested parties to provide evidence to support their positions on the issue
22 and to cross examine expert witnesses.

23 It promotes efficiency and economy for the Commission to determine, in advance of the
24 evidentiary hearing on the April 2, 2015 filing, the threshold issue of whether any portion of APS's
25 April 2, 2015 filing must be considered in a rate case. A briefing schedule and oral argument on that
26 procedural issue should therefore be established. There are pending dockets before the Commission
27 addressing issues similar to those presented by APS's April 2, 2015 filing. The procedural schedules
28 in those electric utilities' dockets have been taken into account in setting the procedural schedule in

1 this proceeding, and will allow time for preparation of ROOs in each proceeding for the
2 Commission's consideration.

3 IT IS THEREFORE ORDERED that a Procedural Conference shall commence on **June 12,**
4 **2015, at 10:00 a.m.,** or as soon thereafter as is practical, at the Commission's Phoenix offices, **1200**
5 **West Washington, Phoenix, Arizona, 85007, Hearing Room #1,** for the purpose of hearing **Oral**
6 **Argument** on the issue of whether any portion of APS's April 2, 2015 filing must be considered in a
7 rate case.

8 IT IS FURTHER ORDERED that **all parties who wish to participate in this proceeding**
9 shall file **Initial Briefs,** in support of the party's position on the issue of whether any portion of
10 APS's April 2, 2015 filing must be considered in a rate case, on or before **May 22, 2015.**

11 IT IS FURTHER ORDERED that **all parties who wish to participate in this proceeding**
12 shall file **Reply Briefs,** in support of the party's position on the issue of whether any portion of
13 APS's April 2, 2015 filing must be considered in a rate case, on or before **June 5, 2015.**

14 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
15 Communications) shall to apply to this proceeding and shall remain in effect until the Commission's
16 Decision in this matter is final and non-appealable.

17 IT IS FURTHER ORDERED that each party to this matter may opt to receive service of all
18 Procedural and Recommended Orders issued by the Commission's Hearing Division in this matter
19 via e-mail rather than U.S. Mail, as permitted under A.A.C. R14-3-107(B). To exercise this option, a
20 party shall send to hearingsdivision@azcc.gov, from the e-mail address at which the party desires to
21 receive service, an e-mail request including the name of the party on whom service is to be made and
22 the docket number for this matter. After a party receives an e-mail confirmation of its request from
23 hearingsdivision@azcc.gov, the party will receive all future Procedural and Recommended Orders
24 issued by the Hearing Division in this matter via e-mails to the address provided by the party, unless
25 and until the party withdraws its request. Service of a document via e-mail shall be considered
26 complete upon the sending of an e-mail containing the document to the e-mail address provided by a
27 party, regardless of whether the party receives or reads the e-mail containing the document.
28

1 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
2 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

3 DATED this 28th day of April, 2014.

4
5
6 
7 TEENA JIBILIAN
ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing mailed/delivered
9 this 28 day of April, 2014 to:

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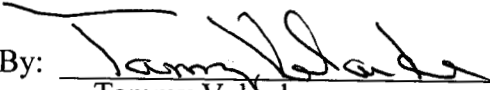
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