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BEFORE THE ARIZONA CORPORATION COMMISSION

10 COMMISSIONERS

11 SUSAN BITTER SMITH, Chairman
 12 BOB STUMP
 13 BOB BURNS
 14 DOUG LITTLE
 15 TOM FORESE

Arizona Corporation Commission

DOCKETED

SEP 25 2015

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

DOCKET NO. E-01345A-13-0248

**ARIZONA PUBLIC SERVICE
COMPANY'S MOTION TO AMEND
INTERLOCUTORY ORDER**

19 In their most aggressive display of political gamesmanship to date, TASC and its
 20 allies have shown their true colors. Instead of taking the opportunity to prove their
 21 claims through sworn testimony, they have retreated to procedural tactics and character
 22 attacks designed to discredit elected officials and undermine the integrity of the Arizona
 23 Corporation Commission. The obvious goal is to paralyze the Commission. The rooftop
 24 solar leasing companies do not want to have a substantive discussion, especially not in a
 25 hearing where their representatives will be on the record and subject to cross
 26 examination. They can only continue to profit from artificial subsidies as long as they

1 can continue to disrupt the regulatory process and prevent the Commission from
2 considering the substance of rate design.

3 APS's Motion to Reset created an opportunity for the Commission to make
4 incremental progress on addressing the cost shift between distributed generation (DG)
5 and non-DG customers in two separate ways. First, APS requested that the Commission
6 reset the Grid Access Charge to \$3/kW, an amount that the Commission had previously
7 found to be reasonable in Decision No. 74202. Resetting the Grid Access Charge to
8 \$3/kW now would improve the price signal sent to customers who install DG and
9 provide the Commission with more flexibility in incrementally addressing the issue
10 through rate design in APS's next rate case. It would also be entirely revenue-neutral, as
11 every dime collected would be credited to the LFCR, conclusively rendering moot any
12 and all fair value concerns associated with the Grid Access Charge.

13 Second, APS's Motion to Reset provided a venue for the Commission and all
14 interested stakeholders to continue discussing how to advance Arizona's energy policy.
15 In 2013, the Commission played a significant leadership role in beginning the discussion
16 of how to fairly address the subsidies in rate design. Commissions throughout the
17 country almost immediately followed suit, initiating their own discussions and inquiries.
18 APS's Motion to Reset is part of the next phase of this discussion in Arizona, a phase
19 designed to elicit evidence and sworn testimony supporting the parties' various
20 positions.

21 In August, the Commission determined that evidence would assist its review of
22 APS's Motion, and ordered that an evidentiary hearing proceed.¹ And in ordering a
23 hearing, the Commission declined to accept its prior findings that the installation of DG
24 shifts costs to non-DG customers at face value.² Instead, the Commission ordered that
25 APS prove once again that (i) the installation of DG causes the under recovery of fixed
26 grid costs; and (ii) those unrecovered fixed grid costs are shifted to customers without

27 ¹ See Decision No. 75251.

28 ² See Decision No. 74202 at P 49.

1 DG. The Commission ordered that a hearing should commence pending further
2 definition of scope, and that no issue was prejudged.³

3 Faced with the prospect of proving their rhetoric with evidence, TASC and its
4 allies have sought rehearing. The recent rehearing requests are built on allegations about
5 rumor and Facebook posts; reflect a misunderstanding or mischaracterization of the Grid
6 Access Charge and APS's LFCR Adjustor; and contort the law beyond recognition in an
7 attempt to achieve political objectives. These, along with several other serious
8 substantive flaws, are ultimately rendered moot by the filings' procedural defects.
9 Decision No. 75251 was an interlocutory order and resolved no substantive rights.
10 Therefore, requests for rehearing of that order cannot be granted as a matter of law.⁴
11 Instead of taking the opportunity to substantiate their positions with evidence and sworn
12 testimony, these parties filed patently improper requests for rehearing in a desperate
13 attempt to avoid addressing the issues. In fact, it appears that TASC regularly uses these
14 tactics to undermine serious policy discussions throughout the country, including New
15 Mexico, Hawaii, Kansas, California, Nevada, and Wisconsin.⁵

16 APS is committed to serious discussions that further good public policy for the
17 benefit of all of its customers. The Commission has made clear its own interest in these
18 discussions, and has ordered that the parties submit real data and sworn testimony to
19 support the claims. In Decision No. 75251, the Commission ordered that APS file Cost
20 of Service information as part of the hearing process. APS is prepared to submit this
21 information and the results will show that customers will experience real consequences
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³ Decision No. 75251 at P 164.

24 ⁴ See A.R.S. § 40-253(A) ("After any *final order or decision* is made by the commission, any party to
25 the action . . . may apply for a rehearing . . ."). Because Decision No. 75251 decided no substantive
26 rights, and only authorized a hearing, the rehearing requests were improper and cannot be granted. *See,*
27 *e.g., Industrial Comm'n v. Superior Court*, 5 Ariz. App. 100, 104, 423 P.2d 375, 379 (1967) ("An order
28 denying a motion to dismiss is an interlocutory non-appealable order . . ."); *see also* A.R.S. § 12-2101.

⁵ *See, e.g.,* Motion for the Disqualification of Comisisoner (sic) Ellen Nowak of the Alliance for Solar
Choice, Application of Wisconsin Electric Power Company And Wisconsin Gas, LLC, both d/b/a We
Energies, For Authority to Adjust Electric, Natural Gas, and Steam Rates, Docket No. 5-UR-107
(December 1, 2014).

1 if the cost shift is not fairly and sustainably addressed. Delay only deepens the
2 magnitude of the problem, and meaningful progress should be made promptly.

3 In an effort to continue making such meaningful progress, and if it would be
4 helpful to the Commission, APS recommends that the Commission order a more narrow
5 hearing than contemplated in Decision No. 75251. This modified hearing would address
6 and culminate in findings about (i) the cost to serve APS's residential customers with
7 and without solar; and (ii) how those costs are collected under APS's current rate design.
8 It should address cost of service issues only, and not address other values of solar. The
9 value of solar is a means to guide resource planning, and should be addressed in
10 separate, but related dockets. If a hearing about these issues can be promptly scheduled,
11 and the facts found in this hearing be used to inform APS's 2016 general rate case, APS
12 would forgo its request to reset the Grid Access Charge. In other words, this proceeding
13 would transition into a hearing with the goal of establishing important policy findings
14 that guide subsequent APS proceedings before the Commission.

15 APS offers this alternative to the Commission so that progress can continue to be
16 made on these critical policies despite efforts by TASC and others to confuse, distract
17 and delay. A meaningful hearing, even if that hearing does not culminate in a reset of the
18 Grid Access Charge, is an important step forward. Accordingly, APS requests that the
19 Commission modify Decision No. 75251 pursuant to A.R.S. § 40-252 for the limited
20 purpose of removing any consideration of resetting the Grid Access Charge. Then, the
21 hearing in this matter can proceed with an evaluation of critical policy issues that will
22 inform future APS proceedings. In order to effectively use any findings that emerge
23 from this proceeding, APS urges that this inquiry conclude with a Commission decision
24 on the findings by March 31, 2016.

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RESPECTFULLY SUBMITTED this 25th day of September 2015.

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ORIGINAL and thirteen (13) copies
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