OPEN MEETING AGENDA ITEM

August 11, 2015

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Arizona Corporation Commission
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Arizona Corporation Commission
Commissioners Wing
1200 W. Washington
Phoenix, Arizona 85007

Re: ***IN THE MATTER OF THE APPLICATION OF ARIZONA PUBLIC SERVICE COMPANY FOR APPROVAL OF NET METERING COST SHIFT SOLUTION (LFCR RESET APPLICATION): DOCKET NO. E-01345A-13-0248***

COMMENTS OF ARIZONA INVESTMENT COUNCIL IN OPPOSITION TO RECOMMENDED ORDER

Dear Commissioners:

I write in strong opposition to the Recommended Order's suggestion that APS's LFCR Reset Application be dismissed.

The Procedural Order entered in this matter on April 28, 2015 expressly confined the topic for consideration at oral argument to "the threshold issue of whether any portion of APS's April 2, 2015 filing must be considered in a rate case." The ordering language was clear:

> IT IS THEREFORE ORDERED that a Procedural Conference shall commence on June 12, 2015, at 10 a.m., or as soon thereafter as is practical . . . for the purpose of hearing Oral Argument on the issue of whether any portion of APS's April 2, 2015 filing must be considered in a rate case.

At Oral Argument, virtually every party to the proceeding agreed that the answer to that legal question was no. Commission Staff, the Residential Utility Consumer Office, the Arizona Competitive Power Alliance, Arizona Public Service Company, the Arizona Solar Deployment Alliance and others universally conceded that the Commission can legally act on APS's LFCR Reset Application without filing a rate case. Only The Alliance for Solar Choice ("TASC") argued that APS's request must be considered within a rate case, based on a contorted reading of *Scates v. Arizona Corp. Comm'n*, 578 P.2d 612, 615 (Ariz. Ct. App. 1978).

However, the Recommended Order contained little if any analysis of whether the filing must be considered in a rate case. Instead, it considered a much different question: even if it is legally allowed to do so, *should* the Commission consider APS's Application or should it be dismissed offhand without any substantive or evidentiary consideration? The question of whether an admitted cost-shift should continue without mitigation until the end of APS's next rate case (whenever that may be) is a question of policy for the Commission to decide. But any Commission decision to dismiss APS's Application without a discussion on its merits must be just, reasonable, and in the public interest. AIC respectfully contends that it is not.

The Recommended Order holds that it is *not* in the public interest to entertain the LFCR Reset Application now because APS intends to file a rate case sometime next year, there is no "urgent need" to consider the issue before then, and the possible outcome of this docket might be limited compared to the potential solutions on the table in a rate proceeding. This analysis disregards both the fact that APS has not yet filed a rate case and the regulatory lag that is certain to result when it does.

The Recommended Order essentially looks to consolidate the LFCR Reset Application with a proceeding that has not even been initiated. Such an outcome is unreasonable, setting a precedent that could have unintended future consequences. Even in this case, the Recommended Order will have one of two non-optimal results: (1) the company will be forced to file a rate case to address the issue, perhaps even earlier than it otherwise would have done; or (2) the company will forego filing a rate case until a much later date, and the mitigating remedy to the cost shift it seeks in this proceeding will be lost indefinitely.

Moreover, the next APS rate case, whenever filed, is surely to be contentious given the parties and issues involved. At best, were APS to file a rate case mid-next year, any solutions adopted would not likely be implemented until early to mid-2017. This delay is precisely what the out-of-state rooftop solar financing companies that TASC represents seek, and not for reasons of procedural efficiency.

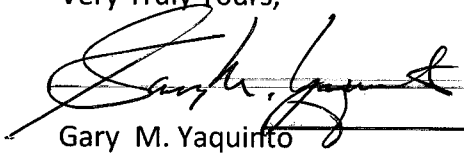
Over the next two years, TASC's member companies will be marketing their product based on a rate structure that many, including AIC, believe is unsustainable. The result is a cost shift for customers without rooftop solar that may appear less substantial today, but that will grow over time. And customers that install rooftop solar systems now based on today's rate structure will be complaining at the Commission's doorstep when, two years down the line, the economics of their solar contracts turn upside down because the subsidy now embedded in APS's rates will have been eliminated. The longer the Commission waits to address the cost-shift, even in moderate steps, the harder it will be to resolve.

Protestations about the existence or amount of the rate-embedded rooftop solar subsidy defy credulity, especially when those that make them seek to greatly delay or suppress an evidentiary hearing on the subject at every opportunity. The cost-shift resulting from the existing net metering rules and volumetric rate design is the subject of discussion in regulatory, legislative, and legal proceedings across the country. It was expressly recognized by this Commission in Decision No. 74202, as was a range of LFCR adjustments that could mitigate the cost-shift between now and the next rate case. In this case, APS seeks an increase to a level within that already approved range.

The Commission took a conservative first step in the right direction in 2013. Under the Recommended Order today, the full solution, or somewhere near it, will not be implemented until at least 2017. It makes good sense to take a moderate middle step today. The gradual approach that APS proposes will make any future resolution more palatable to customers in the long run and give so-inclined solar companies the opportunity to adjust their business models to succeed in a new rate structure.

Whether or not the Commission ultimately decides to approve the Application, it should have the benefit of a more robust discussion on the Application's merits. Accepting a recommendation to dismiss the LFCR Reset Application without any real substantive discussion is hardly just, reasonable, or in the public interest.

Very Truly Yours,



Gary M. Yaquinto
President & CEO

cc: Teena Jibilian

ORIGINAL and 13 copies filed this 11th day of August with:
Docket Control