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AZ CORP COMMISSION  
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

DOUG LITTLE, Chairman  
BOB STUMP  
BOB BURNS  
TOM FORESE  
ANDY TOBIN

13 IN THE MATTER OF THE APPLICATION  
14 OF TUCSON ELECTRIC POWER  
15 COMPANY FOR APPROVAL OF ITS 2016  
16 RENEWABLE ENERGY STANDARD  
IMPLEMENTATION PLAN.

DOCKET NO. E-01933A-15-0239

17 IN THE MATTER OF THE APPLICATION  
18 OF TUCSON ELECTRIC POWER  
19 COMPANY FOR THE ESTABLISHMENT  
20 OF JUST AND REASONABLE RATES  
21 AND CHARGES DESIGNED TO REALIZE  
22 A REASONABLE RATE OF RETURN ON  
23 THE FAIR VALUE OF THE PROPERTIES  
24 OF TUCSON ELECTRIC POWER  
COMPANY DEVOTED TO ITS  
OPERATIONS THROUGHOUT THE  
STATE OF ARIZONA AND FOR  
RELATED APPROVALS.

DOCKET NO. E-01933A-15-0322

Arizona Corporation Commission  
**DOCKETED**

JUN 10 2016

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**POST-HEARING BRIEF**

27 Arizona Public Service Company (APS) submits this post-hearing brief to  
28 support Tucson Electric Power Company's (TEP) application to expand the TEP Owned

1 Residential Solar (TORS) program and create a new Residential Community Solar  
2 (RCS) program. Additionally, APS supports TEP's request to count RECs obtained  
3 through the RCS program towards TEP's residential DG requirement under the  
4 Renewable Energy Standard and Tariff. APS's silence on any other issue is not  
5 intended to convey support or opposition for a party's position on that issue.

6 **I. TEP NEEDS TO COMPLY WITH THE COMMISSION'S RENEWABLE**  
7 **ENERGY STANDARD AND TARIFF**

8 This proceeding is about finding a cost effective way for TEP to comply with the  
9 REST. TEP must acquire 6% of its retail sales (or 543,825 megawatt hours) from  
10 renewable generating resources by the end of 2016, one-third of which must come from  
11 distributed generation. See Direct Test. of C. Tilghman at 4:2-4. To comply with this  
12 DG carve out, TEP must either acquire DG RECs or seek an appropriate waiver. See  
13 Tilghman, Hearing Tr. at 28:12-24. Because the Commission ceased authorizing  
14 upfront incentives for residential DG, TEP no longer acquires RECs from third parties  
15 through incentive payments, even though TEP's compliance obligation remains. *Id.* at  
16 28:25-29:6. As a result, TEP cannot meet the standard now and into the future unless  
17 action is taken. The potential actions are (i) purchasing RECs from third parties; (ii)  
18 obtaining a waiver of the DG carve out; or (iii) building cost-effective utility-owned  
19 facilities.

20 **A. Purchasing RECs from third parties would needlessly increase costs**  
21 **to customers without additional benefits.**

22 If TEP were to acquire RECs from third parties, it would mean purchasing the  
23 RECs from the owner of a net metered DG system, whether that is the customer or a  
24 third-party installer who leased the system to the customer. This would be expensive.  
25 See Huber, Hearing Tr. at 677:19-678:3. The cost shift, recognized by the Commission  
26 in Decision No. 74202, means that non-DG customers effectively pay the full cost of  
27 third-party owned DG under the current volumetric rate design.<sup>1</sup> This cost that non-DG

28 <sup>1</sup> See Decision No. 74202 at Paragraph 49.

1 customers pay occurs under both third-party and utility-owned systems. *See* Tilghman,  
2 Hearing Tr. at 64:3-7. Third-party systems, however, involve two other factors that  
3 impose additional costs on non-DG customers.

4 First, procuring RECs associated with the energy produced by third-party owned  
5 systems involves paying an unknown amount of profit to the third-party installer through  
6 the cost shift. *See* Huber, Hearing Tr. at 654:19-23. Second, procuring RECs in this  
7 manner requires paying an extra amount for the REC itself. *See* DeRamus, Hearing Tr.  
8 at 554:3-9. *See also*, Cicchetti, Hearing Tr. at 387:18-21. The cost of RECs is currently  
9 unknown, and Staff Witness Robert Gray stated that he believed that the cost varied a lot  
10 depending on where the RECs were located. *See* Gray, Hearing Tr. at 625:19-626:2.  
11 There is uncertainty as to what RECs would actually cost on a going forward basis and  
12 what REC costs will do in the future. *Id.* at 626:2-3. This is particularly true since  
13 RECs are owned by unregulated third-parties who can decline to sell the RECs until the  
14 price is high enough. The point is not how much the REC actually costs, but instead that  
15 the REC is an incremental cost to customers that could be avoided.

16 **B. A waiver of the DG carve-out would be the least expensive means to**  
17 **establish REST compliance, but is not without risks.**

18 A waiver is free. It does not require customers to pay any additional costs. It is  
19 not clear, however, whether a utility can realistically rely on a waiver year-to-year.  
20 There are unquestionable risks that the Company faces when relying on a year-to-year  
21 waiver. *See* Cicchetti, Hearing Tr. 402:23-25; Huber, Hearing Tr. 678:19-20; Gray,  
22 Hearing Tr. 612:10-15. The REST is a long term requirement, and the Company is  
23 responsible for meeting the obligations under the REST. The present or future  
24 Commission may or may not grant a waiver. Additionally, even if a waiver was granted,  
25 future Commissions are not necessarily bound by prior waivers. Staff witness Gray  
26 acknowledged that there is no guarantee that the Commission would grant a waiver from  
27 year-to-year, and that there is a risk that a future Commission could retroactively require  
28 the Company to make up all of the increments that had been previously waived. *Id.* at

1 612:2-15. The Residential Utility Consumer Office (RUCO) also sees value in  
2 mitigating some of the waiver risk for the long-term interest of ratepayers. *See* Huber,  
3 Hearing Tr. at 678:19-23. RUCO witness Lon Huber testified that there is policy  
4 uncertainty over the next decade on what will happen with RECs and with the REST  
5 rules and compliance. *Id.* at 678:24-679:2.

6 A permanent waiver would be a better option compared to a year-to-year waiver.  
7 EFCA witness Thomas Beach agreed that a permanent waiver would be the lowest cost  
8 option for the Company to meet its REST obligations. *See* Beach, Hearing Tr. 454:7-18.  
9 EFCA witness Charles Cicchetti also testified that he would support approving a  
10 permanent waiver for a particular year's incremental requirement. *See* Cicchetti,  
11 Hearing Tr. 403:1-8. Presumably, a permanent waiver could be crafted so that it could  
12 not be undone. But this is a presumption only. Even a permanent waiver is not risk-  
13 free. Commissions are not bound by a previous Commission's decision to grant a  
14 permanent waiver and could potentially require the affected utility to go back to fulfill  
15 the requirements that had been waived. *See* Gray, Hearing Tr. at 612:19-23; *Id.* at  
16 624:6-8. If that happened, customers would face the costs associated with "catch-up  
17 compliance." Although a permanent waiver would be a better option than a year-to-year  
18 waiver, TEP could not wholeheartedly count on the cost-free compliance option to meet  
19 its REST obligation.

20 **C. Expanding TEP's TORS program and creating the RCS program are**  
21 **in the public interest and should be approved by the Commission.**

22 Aside from cost shift funded third-party DG and a waiver, TEP could meet its  
23 REST obligations by building utility-owned DG that produced RECs eligible for the DG  
24 carve-out. Evidence in the record showed that TEP's proposals would be a cost  
25 effective means for TEP to comply with the REST. Given the extra costs associated  
26 with third-party systems, and the potential that a waiver could be undone, TEP's TORS  
27 and RCS proposals should be approved.

28

1                   **1. The TORS proposal would modestly expand a cost-effective**  
2                   **program that provides more options to customers.**

3                   If approved, the TORS expansion would add a modest number of additional  
4 residential customers since TEP has proposed that the number of participants be capped  
5 at 1,000. *See* TEP 2016 REST Implementation Plan at 10. The program provides  
6 additional options for TEP customers to go solar in a different way than currently  
7 provided by third-parties. TEP witness Carmine Tilghman testified that the Company  
8 received customer feedback asking for alternative options to what was currently  
9 presented to them under either a lease model and/or cash purchase model. *See*  
10 Tilghman, Hearing Tr. at 76:6-17. RUCO supports TORS in general because it provides  
11 customers an option that is equal to or below the cost of third party installations to the  
12 non-participants. *See* Huber, Hearing Tr. at 647:9-15.

13                   The TORS program is in the public interest and should be approved by the  
14 Commission. RUCO witness Huber explained that under the TORS program, the non-  
15 DG participant would gain the benefit of decreasing solar costs because the price of the  
16 program would correspondingly decrease. *See Id.* at 650:17-651:1. However, under the  
17 current net metering structure, solar could significantly decrease in costs, but non-DG  
18 customers would never see that direct benefit. *Id.* at 651:2-8. He further explained that  
19 “this is because the retail rate is fixed at the retail rate and does not go down as the price  
20 of solar goes down.” *Id.* at 651:8-11. EFCA witness David DeRamus also agreed that  
21 under retail net metering, the price for non-participants does not decrease as the cost of  
22 solar decreases. *See* DeRamus, Hearing Tr. at 537:5-17. This is because those non-DG  
23 customers continue to pay the full retail rate cost shift even as the cost of solar has  
24 declined.

25                   **2. The RCS program would provide a cost-effective way for**  
26                   **utilities to meet the DG carve-out.**

27                   The RCS program is also in the public interest and should be approved by the  
28 Commission. APS agrees with TEP, Staff, and RUCO that the RECs from community

1 solar projects should be used to satisfy the residential DG requirement. *See* Direct Test.  
2 of C. Tilghman at 26:14-16; Responsive Test. of R. Gray at 6:16-21; Responsive Test. of  
3 L. Huber at 1:12-13. Community solar is, in fact, connected at a distribution grid level  
4 and can be located where it provides significant grid benefits. There is nothing in the  
5 REST rules that forbids a utility from owning DG assets to meet the DG carve-out  
6 obligation. And Staff pointed out that limiting all DG to only customer premises may  
7 foreclose opportunities to install renewable resources at the least cost while providing  
8 the most benefits. *See* Direct Test. of R. Gray at 6:3-5. Staff believed that it would be  
9 arbitrary to not count a renewable generation facility that is connected to the distribution  
10 system, but is not on a given customer's premise. *Id.* at 6:5-7.

11 Additionally, Staff noted that community solar would be an important  
12 development in the distributed generation market and the economies of scale in  
13 construction, operation, and avoidance of possible issues related to placing DG systems  
14 on rooftops are beneficial. *Id.* at 14:19-23. Staff recommends granting TEP's request to  
15 count the RECs from the RCS program towards their residential DG obligation. *Id.* at  
16 6:16-21. Staff witness Gray testified that community solar provides economies of scale  
17 benefits but at a smaller size and level on the distribution system. *See* Gray, Hearing Tr.  
18 at 626:19-22. Therefore, it can provide "the best of both worlds with DG and utility  
19 scale." *Id.* at 626:23-24. Staff perceived significant value with the RCS program, and  
20 thought it significant that the RCS program would allow for customers who may not be  
21 able to participate in rooftop solar otherwise. *Id.* at 626:24-627:3.

### 22 3. Future review by the Commission will protect TEP customers.

23 It is important to note that TEP is not asking for recovery of the proposed capital  
24 investments necessary for the TORS expansion or proposed RCS program through the  
25 REST plans. *See* Direct Test. of C. Tilghman at 5:16-23. Instead, those investments will  
26 be subject to a prudency review and evaluation by the Commission and the intervening  
27 parties in the next rate case. *See also*, Hearing Tr. at 59:15-24. Unlike cost shift funded  
28

1 third-party solar, this prudency review would ensure that customers only pay the cost of  
2 the program, and are not paying an unknown (and potentially excessive) amount of  
3 profit for rooftop solar.

4 **II. THE ROOFTOP SOLAR INDUSTRY'S CONCERNS ARE OVERSTATED**  
5 **AND TEP'S PROPOSAL WON'T HURT COMPETITION.**

6 **A. There will be limited opportunities for participation in the proposed**  
7 **programs.**

8 TEP has proposed that the TORS and RCS programs both be limited to 1,000  
9 participants each. Staff notes that the Company's RCS proposal at issue in this  
10 proceeding is for a 5 MW facility, capped at 1,000 participants, and if TEP chose to go  
11 beyond what is approved by the Commission, they would be doing so at their own risk.  
12 *See* Gray, Hearing Tr. at 587:4-7. If the Commission decided that additional growth of  
13 the programs was not in the public interest, the Commission is well-equipped to address  
14 the issue in the future. *See* Yardley, Hearing Tr. at 292:10-18. The Commission can  
15 stop future growth, and even EFCA Witness David DeRamus agreed that the  
16 Commission had the ability to limit future growth. *See* DeRamus, Hearing Tr. at  
17 508:15-16. He believed that the Commission should not allow a limited program nor  
18 should the Commission evaluate future growth at a later date, and instead believed that  
19 these additional customer options should be quashed immediately. *Id.* at 508:16-18.  
20 However, if TEP is to comply with the REST, the Commission should approve the  
21 programs today.

22 The current TORS program is capped at 600 participants, and it has not impacted  
23 competition so far. Solar applications and installations are currently higher than they  
24 were prior to the implementation of the program. *See* Direct Test. of C. Tilghman at  
25 10:4-9. RUCO witness Huber testified that the third-party market is as "healthy as  
26 ever." *See* Huber, Hearing Tr. at 643:8-9. Although certain parties argue that the  
27 market is only healthy because of fear, uncertainty, and doubt around the ITC and  
28 around tariff changes, Mr. Huber points out that those parties also argue that it is fear,

1 uncertainty and doubt that will kill the market. *Id.* at 643:14-19. *See also*, Cicchetti,  
2 Hearing Tr. at 429:11-432-21. In any event, these statements about fear, uncertainty,  
3 and doubt are irrelevant. Vendors will always use fear mongering and other marketing  
4 techniques to sell their product, whether that is rooftop solar or something else. The  
5 third-party rooftop solar market is as healthy as ever despite the existing TORS program,  
6 regardless of why customers are signing up. Therefore, the only rational explanation is  
7 that these proposed programs are limited and do not have a negative impact on the  
8 current market. Instead, the anti-competitive fear mongering is more about TEP's rate  
9 case proposals and the possibility of future expansions of Utility owned DG. EFCA  
10 witness Cicchetti stated that he believed the market would be harmed because solar  
11 companies "face changes in NEM, three part tariffs, and higher customer charges" and  
12 that TEP's proposed programs are another factor. *Id.* However, the Commission should  
13 not put the cart before the horse and quash customer offerings because of future fears  
14 that might never come to pass.

15 **B. Third-parties will still have ample opportunities to grow their**  
16 **business if TEP's proposal is approved.**

17 EFCA argues that TEP's proposals would eviscerate the third-party market and  
18 limit their ability to sell their product. There is no evidence to support that argument,  
19 only self-serving predictions made by rooftop solar companies. Staff agrees. Staff does  
20 not believe that the RCS would harm third-party solar offerings and testified that the  
21 RCS would not limit opportunities for third-parties to install systems on people's homes,  
22 market leases, or sell systems. *See* Gray, Hearing Tr. 603:24-604:3. Additionally, Staff  
23 is not concerned that TEP would use the RCS to target customers who otherwise might  
24 be interested in third-party residential rooftop offerings as alleged by EFCA. *Id.* at  
25 605:12-17. Staff stated that customers are "out there making decisions, and they go  
26 about making decisions in different ways." *Id.* at 605:18-20. Some customers may look  
27 at utility offerings and some customers may not want to take service from the utility.  
28 *Id.* at 605:20-22. Furthermore, TEP testified that their current TORS program has

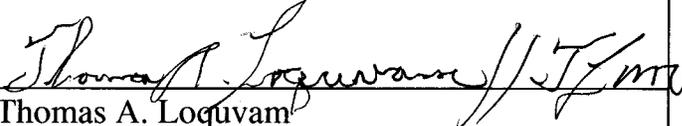
1 “brought a certain level of certainty and surety to local solar installers.” *See* Tilghman,  
2 Hearing Tr. at 67:12-16. Those installers can offer any of their other products along  
3 with the TEP TORS and are not restricted to only selling the TEP program. *Id.* at 67:15-  
4 17.

5 Additionally, evidence admitted in this matter indicated that TEP’s proposals  
6 would preclude customers from installing energy efficiency mechanisms or other  
7 offerings. When EFCA witness Dr. Cicchetti was questioned further about whether  
8 TEP’s two proposals in the current proceeding would actually harm the market for  
9 energy efficiency and other offerings, Dr. Cicchetti replied that he was less certain of his  
10 answer, because he believed that there are customers that would still prefer to be  
11 separate from the utility. He believed that certain customers would still like the benefits  
12 that are associated with rooftop solar. *See* Cicchetti, Hearing Tr. 395:21-396-13. He  
13 continued, stating that under current conditions, there still would be a third-party market,  
14 and that some customers would want some form of separation from their utility. *Id.* at  
15 396:25-397:3. It is unlikely that TEP’s current proposals would limit opportunities for  
16 third-parties to continue to do business in the future.

17 **III. CONCLUSION**

18 APS believes that the Commission should approve TEP’s proposals to expand the  
19 TORS program and create the RCS program. These programs are limited in nature,  
20 offer customers another way to participate in rooftop solar, and are a cost-effective way  
21 for TEP to fulfill its REST compliance obligations. TEP’s proposals are in the public  
22 interest and are a reasonable way for TEP to fulfill its REST obligations. Additionally,  
23 APS supports the request that RECs obtained through the RCS program be counted  
24 towards TEP’s residential DG requirement under the REST.

1 RESPECTFULLY SUBMITTED this 10th day of June 2016.

2  
3  
4 By:   
5 Thomas A. Loquvam  
6 Attorney for Arizona Public Service Company

7 ORIGINAL and thirteen (13) copies  
8 of the foregoing filed this 10th day of  
9 June 2016, with:

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6  A handwritten signature in cursive script, reading "Jamie Shahan", is written over a horizontal line. The signature is positioned between the line numbers 5 and 6.

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