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

BEFORE THE ARIZONA CORPORATION COMMISSION

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

ARIZONA PUBLIC SERVICE COMPANY’S REPLY BRIEF

I. THE COMMISSION HAS THE AUTHORITY TO HEAR AND DECIDE THIS MATTER NOW, IN THIS DOCKET AND OUTSIDE OF A RATE CASE.

With one predictable exception, all of the parties who responded to the question: “is there a portion of APS’s April 2, 2015 Motion to Reset that must be considered in a rate case,” reached the same conclusion.1 And that is, the Commission has the authority and discretion under the law to decide and grant the Motion to Reset outside of a rate case.

For example, Commission Staff presented its analysis of the Scates case2 and the Arizona Constitution to support the position that Arizona law does not require a rate

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1 Western Resource Advocates did not brief, and expressed no position on this question.
case for the Commission to determine whether the LFCR should be reset—a position it has expressed throughout this proceeding. Staff concluded “the Commission may lawfully process APS’s Application outside a rate case”\(^3\) and “has the discretion to decide how best to process the issues raised in APS’s filing.”\(^4\) “Staff agrees with APS that the Commission has the discretion to determine how best to proceed with APS’s Application”\(^5\) and that “[u]nder the circumstances presented by APS’s Application, the Commission is not required to address this matter in a full rate case.”\(^6\)

RURO, the state agency tasked with representing the interests of residential utility consumers in matters such as the Motion to Reset, also undertook a review of the Scates case, the APS Settlement Agreement and the Commission’s Rules and Regulations. RUCO correctly concluded, “there is no legal impediment which requires the Commission to hear APS’ Motion outside of a rate case.”\(^7\) Recognizing the need now for customer relief from the existing cost shift problem, RUCO further concluded that it would be appropriate for the Commission to decide the Motion to Reset at this time and that “[i]t would be counter-productive in the long run to continue to avoid the issue and defer it to the next rate case.”\(^8\)

The Arizona Solar Deployment Alliance, whose members are solar companies doing business in Arizona, similarly stated, “[i]n 2013, APS went to the Commission and adjusted its LFCR, not its net metering tariff. When that occurred, the Commission contemplated the LFCR adjustment being reset before the next rate case. . . It is for these reasons that ASDA believes APS’ Motion could be heard outside of a rate case.”\(^9\)

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\(^3\) Staff’s Brief Pursuant to April 28, 2015 Procedural Order at p. 1, lines 17-18.
\(^4\) Id. at p. 1, lines 25-26.
\(^5\) Id. at p. 6, lines 1-2.
\(^6\) Id. at p. 4, lines 14-15.
\(^7\) RUCO’s Brief on Interim Net Metering Solution at p. 3, lines 20-21.
\(^8\) Id. at p. 4, lines 7-8.
\(^9\) Initial Brief at p. 2, lines 15-19.
Other solar industry representatives SEIA and AriSEIA, also concluded that, “the Commission has discretion to fully deliberate this matter and pursue the most prudent course of action at the most appropriate time.”

The Arizona Competitive Power Alliance (the AzCPA), whose diverse membership includes renewable and solar companies, likewise concluded: “The Arizona Corporation Commission is not required to review any portion of APS’s April 2, 2015 filing in a rate case.” The AzCPA undertook its own analysis of the *Scates* case and concluded that “the Corporation Commission has the authority to make revenue neutral rate changes without requiring a full-blown rate case and without relying on the classic Scates’ exemptions of interim rates or adjuster mechanisms.” Specifically addressing the Motion to Reset, the AzCPA stated, “[h]ere the Commission not only established the LFCR in a rate case, but established an LFCR adjustment procedure that requires the company to submit, Staff to review and the Commissioners to opine on additional evidence.” AzCPA concluded that “[t]he Commission is well within its authority to make this adjustment outside the bounds of a rate case.”

The lone outlier on this issue is TASC, which represents large for-profit solar companies doing business throughout the United States. TASC misconstrued Arizona law and proffered an unsupported legal conclusion that “it would be unconstitutional for the Commission to move forward with this examination outside of APS’s next general rate case.” TASC further declared: (1) no present cost shift exists; (2) “[d]ue process has long been notable in this docket for its absence”; (3) the current Grid Access

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12 Id. at p. 2, lines 4-6.
13 Id. at lines 10-13.
14 Id. at p. 3, lines 6-7.
15 The Alliance for Solar Choice’s (TASC) Initial Brief (TASC Initial Brief) at p. 7, lines 1-2.
16 Id. at p. 2, lines 3-4.
17 Id. at p. 3, line 15.
Charge never received the legally required level of scrutiny;\(^{18}\) and (4) the Motion to Reset asks the Commission to implement illegal single-issue ratemaking.\(^{19}\)

The reality is, the Commission has already found (and TASC has previously admitted) that a cost shift exists, the parties have been afforded due process throughout the prior APS rate case and the proceedings in this and related dockets, the Grid Access Charge has received more than sufficient scrutiny, and the Motion to Reset does not implicate so-called “single-issue ratemaking” because, among other things, the Motion will not increase APS’s revenue.

All of the credible analyses in the briefs that have been submitted demonstrate that the Commission has the authority and the discretion to hear, decide and grant the relief requested in the Motion to Reset now, outside of a rate case. And, as explained herein, it is in the public interest that the Commission exercise its sound discretion to hear and decide the Motion to Reset in this docket at this time.

II. IT IS IN THE PUBLIC INTEREST FOR THE COMMISSION TO DECIDE THE MOTION TO RESET NOW AND NOT WAIT FOR A DISTANT FINAL RATE CASE ORDER.

The Motion to Reset addresses a specific and defined problem. That is the ongoing cost shift between DG solar and non-DG solar customers. The proposed solution is a temporary one, intended to take another step in the right direction of reallocating customer responsibility for annual LFCR revenue, in such a way as to be revenue neutral, until a permanent solution can be ordered by the Commission in the next APS rate case.

The need for a permanent solution is not disputed. In fact, APS, Staff and virtually all other parties to this docket concur that a rate case is a proper venue for determining a permanent solution. As APS has stated previously, “APS agrees with Staff that more comprehensive and permanent solutions are available to address the cost shift in a rate case. These solutions include demand-based charges, a type of charge that Staff

\(^{18}\) Id. at p. 1, lines 24-25.
\(^{19}\) Id. at p. 1, lines 25-26.
has described as ideal for equitably distributing the costs and benefits of DG. But waiting until all solutions are available is not necessary."\textsuperscript{20}

APS further agrees with Commission Staff that in the final analysis, after the parties have made their recommendations, it is the Commission that has the authority to determine if it will hear and decide the Motion to Reset now. In determining whether to decide the Motion to Reset now or wait until the next APS rate case, the Commission should determine what is in the public interest.

When the analysis of public interest is properly focused on what is in the best interest of APS's customers, then the answer becomes clear. It is in the best interest of APS's customers to decide the Motion to Reset now, provide additional relief, and not wait for the next APS rate case order. RUCO shed valuable light on this question from the customer's perspective:

RUCO is concerned that if the Commission defers until APS' next rate case to decide this issue, the cost shift will be so great that the potential impact on new solar customers to address the cost shift could be cost prohibitive. There is little doubt that the cost of solar has come down and the number of solar sales has increased significantly. There is also no doubt that as the number of solar sales continues to grow the cost shift to non-solar customers continues to increase. It would be counter-productive in the long run to continue to avoid the issue and defer it to the next rate case.\textsuperscript{21}

APS has expressed similar concerns that waiting until its next rate case to address the cost shift will have a negative impact on its customers and the Commission's ability to provide customers with full and adequate relief. APS stated:

APS is strongly inclined to prefer grandfathering. But the cost shift continues to grow at a rapid pace. At some point, the cost shift might grow to such an extent that grandfathering all existing DG customers will significantly increase rates for all other non-DG customers. In that circumstance, it might not be feasible for the Commission to grandfather current DG customers. Resetting the Grid Access Charge now affords a greater opportunity to protect current DG customers. Although, delay might permit third-party solar providers to install more DG in the short term, it

\textsuperscript{20} Arizona Public Service Company's Initial Brief at pp. 11-12.
\textsuperscript{21} RUCO's Brief on Interim Net Metering Solution at p. 4, lines 2-8.
would also increase the likelihood of not being able to grandfather current
DG customers in APS’s next rate case.22

How the Commission will address grandfathering is a critical issue for customers. By addressing the issue now in the Motion to Reset, the Commission will preserve a full range of options for a permanent solution to the cost shift in the next rate case.

There are significant and compelling customer-related reasons that support the conclusion that hearing and deciding the Motion to Reset now is in the public interest. Those reasons include, but are not limited to:

1. The unfair cost shift customers are experiencing exists today through the LFCR and is ongoing.

2. APS’s customers are bearing the brunt of the unfair cost shift now and will continue to do so until a permanent solution is ordered in APS’s next rate case.

3. There is no certainty as to when a Commission order in APS’s next rate case will be issued to provide APS’s customers with a permanent remedy.

4. Between now and a Commission order in APS’s next rate case, the long-term cost shift not reflected in the LFCR will continue to grow rapidly, a cost-shift that will permanently increase rates for APS customers after APS’s next rate case.

5. The Motion to Reset proposes an interim solution that is revenue neutral and a gradual step towards a permanent remedy for APS’s customers.

6. If the Commission does not take action now, its available remedies in a future rate case may be limited due to the practical challenges to grandfathering customers.

7. The Commission anticipated additional relief for APS’s customers pending its next rate case and has already provided a forum and process for such relief to be granted in this docket.

8. The interested parties are already joined in this proceeding, are engaged in this issue and have expended substantial resources briefing the

22 Arizona Public Service Company’s Initial Brief at p. 12, lines 11-19.
issues raised by the Motion to Reset. The findings and conclusions resulting from this proceeding can help streamline APS’s next rate case and its pursuit of a final remedy for the cost shift.

Rather than focus on the impacts and consequences of the existing cost shift on APS’s customers, the solar representatives such as SEIA, AriSEIA, and TASC seem to define public interest as actions that primarily promote their own interests in the Arizona solar industry. In fact, AriSEIA states in its brief that its very mission is “to promote policies that promote greater use of solar energy in Arizona.” While promoting solar energy in Arizona is part of the public interest analysis, “solar energy” is more than just rooftop solar, and promoting solar energy should not outweigh the best interests of customers. The arguments of these solar industry representatives fail to consider the reality and impact of the cost shift on customers and the consequences of their proposals—and further delay—on customers. In fact, their arguments and recommendations are contrary to the best interests of APS’s customers, and consequently are not in the public interest.

For example, the solar industry representatives criticize APS for not having already filed a rate increase application in order to deal with the cost shift issue. The idea that a utility would file a rate case application prior to when it would need to do so in the normal course, solely to advance a single rate design related issue, flies in the face of public interest. To suggest that APS be required to do so, or should attempt to do so, when a mechanism such as the Motion to Reset was previously outlined in a prior Commission order, strains the bounds of common sense, and is contrary to the public interest. It is hard to imagine how incurring the cost of a rate case and imposing new rates on APS’s customers sooner than the utility would have otherwise requested, simply because a rate case was the chosen forum for the Motion to Reset, could be a benefit for APS customers or in the public interest.

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24 Id. at p. 2, lines 20-21; id. at p. 3, lines 13-14.
The Commission should be on alert that if history is a prelude to the future, and the Motion to Reset is dismissed and further relief postponed to APS’s next rate case, then representatives of the solar industry will likely argue there, as the Georgia Solar Energy Industries Association (GSEIA) did before the Georgia Public Service Commission that the issue cannot be resolved even in a general rate case absent the findings of a separate “Value of Solar” proceeding. In fact, SEIA and AriSEIA have already tipped their hand in this regard by arguing that no decision on any matter related to net metering (the Motion to Reset, APS’s next rate case, etc.) can be issued until the Commission concludes ACC Docket No. E-000005-14-0023, the “Value and Cost of Distributed Generation” proceeding. Again, the impact of these delay-motivated arguments and the consequences of their adoption are simply not geared towards benefiting APS’s customers and, therefore, cannot be deemed to be in the public interest.

Also, conspicuously absent from the briefs of the solar industry representatives is the concern previously raised by APS, that the permanent, on-going cost shift may preclude the Commission from being able to fashion a just and reasonable solution for those customers who have been bearing the inequitable cost shift. This continuing and permanent shift will only further complicate any decisions the Commission will make in APS’s next rate case regarding which customers, if any, should be grandfathered. By ignoring this issue while advocating a delay in resolving the Motion to Reset, the solar industry advocates are limiting the Commission’s ability to fashion permanent relief to the detriment of all customers. Simply stated, contrary to the arguments of the solar industry, you cannot put off for some unspecified time the ongoing cost shift problem and be acting in the public interest.

25 See In re George Power Company’s 2013 Rate Case, GPSC Docket No. 36989; Direct Testimony of Karl R. Rábago at p. 31, lines 13-16; attached hereto as Exhibit 1.
26 See Initial Brief of the Joint Solar Parties at p. 5, lines 9-10. Apparently, this “delay” strategy is neither new nor unique to Arizona.
III. CONCLUSION

The Commission has the authority and discretion to hear and decide the Motion to Reset now. Doing so is clearly in the public interest. A review of Decision No. 74202 reveals that the Commission has already wrestled with the question of delaying action on the cost shift until APS's next rate case or taking interim action. The Commission concluded that interim action is in the public interest. The Commission stated: "Staff recommends that we defer these issues until APS's next rate case. Although we would prefer to wait until a rate case to address these issues, the delay inherent in such an approach would not serve the public interest."27

The Motion to Reset, which seeks a revenue neutral adjustment to the Grid Access Charge, is properly before the Commission at this time and in this docket. It seeks a modest adjustment to the LFCR charge in order to alleviate some of the cost shift being currently borne by APS's non-DG customers. It is an interim solution that will enhance and not detract from the Commission's ability to fashion a permanent remedy in APS's next rate case. Accordingly, APS requests that petitions for dismissal of the Motion to Reset be denied and the Commission set a procedural schedule for the hearing and decision on this matter as originally requested.

RESPECTFULLY SUBMITTED this 5th day of June 2015.

By: /s/ Thomas A. Loquvam

Attorney for Arizona Public Service Company

27 Decision No. 74202 at p. 26, lines 10-12; See also id. at p. 27, lines 3-6, 19-22.
ORIGINAL and thirteen (13) copies of the foregoing filed this 5th day of June 2015, with:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

COPY of the foregoing mailed/delivered this 5th day of June 2015 to:

Janice Alward
Legal Division
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

Bradley S. Carroll
Tucson Electric Power Company
88 East Broadway Blvd.
Mail Stop HQE910
P.O. Box 711
Tucson, AZ 85702

Dwight Nodes
Acting Chief Administrative Law Judge
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007-2927

Albert Gervenack
Homeowner in Sun City West
14751 W. Buttonwood Drive
Sun City West, AZ 85375

Hugh Hallman
Attorney
Hallman & Affiliates, PC
2011 N. Campo Alegre Rd., Suite 100
Tempe, AZ 85281

Janice Alward
Legal Division
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

Bradley S. Carroll
Tucson Electric Power Company
88 East Broadway Blvd.
Mail Stop HQE910
P.O. Box 711
Tucson, AZ 85702

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Acting Chief Administrative Law Judge
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007-2927

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Homeowner in Sun City West
14751 W. Buttonwood Drive
Sun City West, AZ 85375

Hugh Hallman
Attorney
Hallman & Affiliates, PC
2011 N. Campo Alegre Rd., Suite 100
Tempe, AZ 85281

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Legal Division
Arizona Corporation Commission
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Phoenix, AZ 85007

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Tempe, AZ 85281

Janice Alward
Legal Division
Arizona Corporation Commission
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Phoenix, AZ 85007

Bradley S. Carroll
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Mail Stop HQE910
P.O. Box 711
Tucson, AZ 85702

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Hugh Hallman
Attorney
Hallman & Affiliates, PC
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Tempe, AZ 85281

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Legal Division
Arizona Corporation Commission
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88 East Broadway Blvd.
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P.O. Box 711
Tucson, AZ 85702

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Acting Chief Administrative Law Judge
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Phoenix, AZ 85007-2927

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Attorney
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2011 N. Campo Alegre Rd., Suite 100
Tempe, AZ 85281

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Arizona Corporation Commission
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Phoenix, AZ 85007

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Mail Stop HQE910
P.O. Box 711
Tucson, AZ 85702

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Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007-2927

Albert Gervenack
Homeowner in Sun City West
14751 W. Buttonwood Drive
Sun City West, AZ 85375

Hugh Hallman
Attorney
Hallman & Affiliates, PC
2011 N. Campo Alegre Rd., Suite 100
Tempe, AZ 85281
Garry D. Hays  
Attorney for ASDA  
Law Offices of Garry D. Hays, PC  
1702 E. Highland Avenue, Suite 204  
Phoenix, AZ 85016

Timothy Hogan  
Attorney for WRA  
Arizona Center for Law in the Public Interest  
202 E. McDowell Road, Suite 153  
Phoenix, AZ 85004

Mark Holohan  
Chairman  
AriSEIA  
2221 W. Lone Cactus Drive, Suite 2  
Phoenix, AZ 85027

Patty Ihle  
304 E. Cedar Mill Road  
Star Valley, AZ  85541

Lewis M. Levenson  
1308 E. Cedar Lane  
Payson, AZ 85541

Tim Lindl  
Attorney  
Keyes, Fox & Wiedman LLP  
436 14th Street, Suite 1305  
Oakland, CA 94612

Kevin T. Fox  
Keyes, Fox & Wiedman, LLP  
436 14th Street, Suite 1305  
Oakland, CA 94612

Michael W. Patten  
Attorney  
SNELL & WILMER L.L.P.  
One Arizona Center  
400 E. Van Buren Street, Suite 1900  
Phoenix, AZ 85004-2202

Greg Patterson  
Attorney for Arizona Competitive Power Alliance  
Munger Chadwick  
2398 E. Camelback Road, Suite 240  
Phoenix, AZ 85016

Daniel Pozefsky  
Chief Counsel  
RUCO  
1110 W. Washington, Suite 220  
Phoenix, AZ 85007

Court S. Rich  
Attorney for TASC  
Rose Law Group pc  
7144 East Stetson Drive, Suite 300  
Scottsdale, AZ 85251

Kristin K. Mayes  
Attorney for SEIA  
3030 N. 3rd Street, Suite 200  
Phoenix, AZ 85012

Erica Schroeder  
Attorney  
Keyes, Fox & Wiedman, LLP  
436 14th Street, Suite 1305  
Oakland, CA 94612

John Wallace  
Grand Canyon State Electric Cooperative Association, Inc.  
2210 S. Priest Drive  
Tempe, AZ 85282

-11-
Exhibit 1
BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF GEORGIA

In Re: Georgia Power Company's 2013 Rate Case

DOCKET NO. 36989

DIRECT TESTIMONY

OF

KARL R. RÁBAGO

Presented on behalf of the Georgia Solar Energy Industries Association

OCTOBER 18, 2013

Galloway & Lyndall, LLP
The Lewis-Mills House
406 North Hill Street
Griffin, Georgia 30223
Commission ordered the Company to do in the IRP proceeding.\textsuperscript{5}

Q. How does your recommendation impact the Company’s SPS-1 tariff proposal?

A. The Company is implicitly attempting to establish a solar avoided cost rate in this docket, as it appears in the calculations used to establish the SPS-1 and correlated TOU rates. But, there was no the public process, evidence, and evaluation required for sound ratemaking. Given the Commission’s direction to the Company in the IRP proceeding, the Company should not be permitted to peremptorily use this docket and its proposed SPS-1 tariff to posture its required IRP cost filing in advance. The Commission should deny the Company’s request to implement SPS-1 in this docket and defer its consideration to the solar avoided cost proceeding anticipated in the IRP Order.

\textbf{VALUE OF SOLAR ANALYSIS}

Q. What is VOS analysis?

A. I testified on VOS analysis in the IRP Docket earlier this year. VOS analysis is, in essence, a full

\textsuperscript{5}Correction to Order, Docket No. 36498, p. 3 ("ORDERED FUTHER, that no bids for the Utility Scale solar shall be accepted which exceed Georgia Power’s projected levelized avoided cost for the term of the PPA. Such avoided cost will be established and announced by Georgia Power Company, and approved by the Commission prior to beginning the RFP process.").