



October 5<sup>th</sup>, 2023

Arizona Corporation Commission (ACC)  
Docket Control  
1200 W. Washington Street  
Phoenix, AZ 85007

**RE: Docket No. E-01345A-23-0193. Comments of Center for Resource Solutions (CRS) on Arizona Public Service Company (APS) application to the Arizona Corporation Commission (ACC) for approval of its 2024 Renewable Energy Standard (RES) Implementation Plan.**

Chairman Jim O'Connor and Commissioners:

CRS appreciates this opportunity to comment on the APS application to the ACC for approval of its 2024 RES Implementation Plan (docket no. E-01345A-23-0193). In this application, APS requests "to waive the RES requirement for APS to rely upon the use and retirement of renewable generation (RG) RECs to demonstrate compliance with the RES standard."<sup>1</sup> Our comments are in response to that request.

**BACKGROUND ON CRS AND GREEN-E®**

CRS is a 501(c)(3) nonprofit organization that creates policy and market solutions to advance sustainable energy and has been providing renewable energy and carbon policy analysis and technical assistance to policymakers and other stakeholders for over 20 years. CRS also administers the Greene® programs. For over 20 years, the Green-e® program has been the leading independent certification for voluntary renewable electricity products in North America. In 2021, the Green-e® Energy program certified retail sales of over 110 million megawatt-hours (MWh), serving over 1.3 million retail purchasers of Green-e® certified renewable energy, including over 309,000 businesses.<sup>2</sup>

**Comments**

1. RECs should continue to be used as the compliance mechanism for the Renewable Energy Standard. Granting the APS' waiver request to sell compliance RECs to voluntary customers would result in double counting.

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<sup>1</sup> APS' application for approval of 2024 Renewable Energy Standard Implementation Plan (docket no. e-01345a-23-0193). Available at: <https://edocket.azcc.gov/search/docket-search/item-detail/27852>

<sup>2</sup> See the 2022 (2021 Data) Green-e® Verification Report here for more information: <https://resource-solutions.org/g2022/>.

Approval of the APS 2024 RES Implementation Plan would result in the double-counting of renewable energy by allowing the same generation to be used to both meet the RES and be sold to customers for their voluntary claims: “Renewable energy generation represented by RECs that is sold to a regulated entity to meet a mandate should not also be claimed as a voluntary purchase, as this would double count the use and aggregated impact of the renewable electricity.”<sup>3</sup> This double counting is prohibited in 38 U.S. states and territories in which RECs represent environmental attributes of renewable electricity used to demonstrate adherence to Renewable Portfolio Standards (RPS) or similar regulations.<sup>4</sup> U.S. Environmental Protection Agency (EPA) explicitly cites one example of double counting as when “[a] utility counts the same renewable megawatt-hours (MWh) or RECs toward meeting its renewable portfolio standards (RPS) requirements and as a sale in its voluntary green pricing program.”<sup>5</sup> EPA also highlights the legal risks of double counting by state that: “For organizations, double counting can also lead to credible accusations of greenwashing and can severely hurt an organization’s credibility. Both the Federal Trade Commission and the National Association of State Attorney Generals have issued guidances on legal implications of making fraudulent claims.”<sup>6</sup> Under the APS proposal, RPS ratepayers would not receive the renewable energy they’re paying for and APS would not legally be able to market those MWh as renewable since the associated RECs are being sold off.

The RES is meant to deliver renewable energy to ratepayers as the portion of the utility’s retail sales.<sup>7</sup> To accomplish this, the RES *must* mandate that renewable energy can only be claimed by a single party. By strictly prohibiting double counting of the same unit (MWh) of renewable energy or its attributes by multiple parties, the RES maintains the integrity of the renewable energy market and the credibility of its impact. Each individual MWh of renewable energy must be exclusively dedicated to either sales to voluntary customers or sales to all utility customers for compliance with the RES.<sup>8</sup>

RECs are the legally enforceable contractual instrument for verifying delivery of renewable electricity in both voluntary and state compliance programs throughout the West and across the United States. In Arizona, RECs are defined as including all environmental attributes of electricity generation, and they are used to track greenhouse gas (GHG) emissions associated with retail sales of renewable electricity and verify compliance with the RES.<sup>9</sup> The APS proposal “to waive the RES requirement for APS to rely upon the use and retirement of renewable generation (RG) RECs to demonstrate compliance with the RES standard” and to sell those RECs to voluntary customers while “maintaining full RES compliance

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<sup>3</sup> Guide to Purchasing Green Power (EPA, DOE, WRI, and CRS) Pg. 15. Available at: [https://www.epa.gov/sites/default/files/2016-01/documents/purchasing\\_guide\\_for\\_web.pdf](https://www.epa.gov/sites/default/files/2016-01/documents/purchasing_guide_for_web.pdf)

<sup>4</sup> The Legal Basis for Renewable Energy Certificates (CRS). Available at: <https://resource-solutions.org/document/the-legal-basis-for-renewable-energy-certificates/>

<sup>5</sup> [United States Environmental Protection Agency Double Counting Definition.](#)

<sup>6</sup> [United States Environmental Protection Agency Double Counting Definition.](#)

<sup>7</sup> A.A.C. R 14-2-1801(B)

<sup>8</sup> Intersection of RPS and Voluntary Markets for Renewable Energy. Available at: <https://resource-solutions.org/learn/policy-solutions/>

<sup>9</sup> Available at: ARIZ. ADMIN. CODE § R14-2-1801(N)

obligations through retail sales totals<sup>10</sup> is not only misleading, but in fact double counting. Even if the REC requirement is waived, those RECs cannot be used in the voluntary market because the underlying generation is counted as renewable energy and delivered to RES customers for compliance.

2. RECs associated with generation that is in any way counted towards RES compliance should not be sold to voluntary customers.

If the waiver is granted, corporate purchasers of these RECs would be unable to make valid renewable energy or scope 2 emissions claims due to double counting. These claims are the basis of the demand that APS cites in its application. Since granting the waiver would, in fact, cause that demand to disappear, there is no basis on which to grant the waiver. RECs used for voluntary sales to APS' customers must be retired on behalf of those customers and that generation should not be counted towards compliance with the RES.

The Commission may be creating a barrier to private investment in Arizona if it chooses not to use RECs for the RES and allows them to be sold to voluntary customers. More than half of new renewable energy capacity additions in the West in 2018 were to serve non-compliance demand.<sup>11</sup> The voluntary renewable energy market leverages private, non-ratepayer funding to support renewable energy sources. Those businesses and other voluntary buyers will not make investments in renewable energy that can be double counted or if they cannot verify exclusive use and carbon benefits with RECs. Without REC retirement for compliance, Arizona customers that voluntarily purchase renewable energy cannot demonstrate that their generation is not being used for compliance and/or delivered to other customers.

Furthermore, voluntary buyers in Arizona would have to procure certified renewable energy from outside of Arizona and from where it can be verified that the generation has not been claimed and that it is not being used for compliance. Maintaining REC use for the RES would allow for this demand to be met by resources in Arizona and the surrounding region—allowing Arizona the opportunity to capture the private investment dollars that may otherwise go elsewhere.

Please let me know if we can provide any further information or answer any other questions.

Sincerely,

Lucas Grimes  
Manager, Policy

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<sup>10</sup> APS' application for approval of 2024 Renewable Energy Standard Implementation Plan (docket no. e-01345a-23-0193). Available at: <https://edocket.azcc.gov/search/docket-search/item-detail/27852> (pg.2).

<sup>11</sup> Barbose, G. (June 2023). *U.S. State Renewables Portfolio & Clean Electricity Standards: 2023 Status Update*. Lawrence Berkeley National Laboratory. Pg. 19. <https://emp.lbl.gov/publications/us-state-renewables-portfolio-clean>