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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS
JIM O'CONNOR - CHAIRMAN
LEA MARQUEZ PETERSON
ANNA TOVAR
KEVIN THOMPSON
NICK MYERS

IN THE MATTER OF THE APPLICATION OF ARIZONA PUBLIC SERVICE COMPANY FOR A HEARING TO DETERMINE THE FAIR VALUE OF THE UTILITY PROPERTY OF THE COMPANY FOR RATEMAKING PURPOSES, TO FIX A JUST AND REASONABLE RATE OF RETURN THEREON, AND TO APPROVE RATE SCHEDULES DESIGNED TO DEVELOP SUCH RETURN	Docket No. E-01345A-22-0144 **STATE OF ARIZONA'S APPLICATION FOR REHEARING OF DECISION NO. 79293**

Pursuant to A.R.S. § 40-253(A) and A.A.C. R14-3-111, Attorney General Kris Mayes, on behalf of the State of Arizona ("State"), submits this Application for Rehearing of Decision No. 79293, docketed on March 5, 2024. The State also joins in Intervenors Arizona Solar Energy Industries Association ("AriSEIA") and Solar Energy Industries

Association's ("SEIA") March 21, 2024 Application for Rehearing of Decision No. 79293 and in Sections II(A) – (D) of Vote Solar's March 25, 2024 Application for Reconsideration.

I. Introduction

Arizona's founders constitutionally enshrined the role of the Arizona Corporation Commission ("Commission") as a bulwark against the exploitation of Arizonans by powerful monopoly corporations.[1] Courts have long held that authority conferred on the Commission should be exercised primarily for the benefit of consumers, not utility company shareholders.[2] As such, the State has a profound interest in ensuring that the Commission fulfills its constitutional obligations to the people of Arizona. And although the Commission's ratemaking authority is plenary, constitutional requirements set "an outer limit for the Commission's discretion."[3]

By unilaterally authorizing a discriminatory rate for residential solar customers and by approving a System Reliability Benefit ("SRB") mechanism without adequate oversight provisions, the Commission exceeded its constitutionally permissible discretion when it approved the Recommended Opinion and Order ("ROO") and issued Decision No. 97293 ("Decision"). To make matters worse, the Commission approved both the discriminatory rate and the SRB under circumstances that prejudiced parties' due process rights. As a result, the Commission must either modify the Decision to eliminate these plainly unconstitutional provisions or, at a minimum, grant a rehearing to allow the parties to develop an evidentiary record which might support the Commission's otherwise unconstitutional orders. If the Commission does not grant rehearing and conform the Decision within the bounds of the Commission's constitutional authority, the Arizona

[1] *State v. Tucson Gas, Elec. Light & Power Co*., 15 Ariz. 294, 308 (1914) ("…[T]he people in their fundamental law created the Corporation Commission, and clothed it with full power to investigate, hear, and determine disputes and controversies between public utility companies and the general public. This was done primarily for the interest of the consumer.")

[2] *Arizona Cmty. Action Ass'n v. Arizona Corp. Comm'n*, 123 Ariz. 228, 231 (1979) ("The jurisprudence of our State made it plain long ago that the interests of public-service corporation stockholders must not be permitted to overshadow those of the public served.")

[3] *Freeport Mins. Corp. v. Ariz. Corp. Comm'n*, 244 Ariz. 409, 411 ¶ 6 (App. 2018).

Court of Appeals will almost certainly order it to do so.[4]

II. The additional charge for residential solar customers is a discriminatory rate unsupported by any evidence in the record.

The Arizona Constitution requires that "[a]ll charges made for service rendered, or to be rendered, by public service corporations within this state shall be just and reasonable, and no discrimination in charges, service, or facilities shall be made between persons or places for rendering a like and contemporaneous service."[5] Despite this prohibition, the Commission adopted "an additional charge applicable only to [residential] DG solar customers."[6] The imposition of this charge is not just and reasonable and is discriminatory, arbitrary, unlawful, and unsupported by substantial evidence.

A. There is no reasonable basis to allocate costs to residential DG customers based on site load.

In this case, the Commission approved Arizona Public Service Company's ("APS") site load cost of service study ("COSS") that puts residential DG customers in a separate class.[7] Traditionally, utilities use "delivered load" (*i.e.* the energy supplied by the utility and consumed by the customer) in their COSSs. Here, APS's site load COSS used delivered load for non-solar residential customers and site load for residential DG customers. The site load calculation applied to residential DG customers included not only the delivered load, but also the customer's self-supplied load, *i.e.*, the energy generated by the customer's solar DG and consumed by the customer on site, to allocate costs.[8] The inclusion of a residential customer's self-supplied portion of their load "is an

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[4] *Johnson Utilities, L.L.C. v. Arizona Corp. Comm'n*, 249 Ariz. 215, 227 ¶ 52 (2020) ("Neither the text of section 3, the records of the Arizona Constitutional Convention, nor our prior caselaw state that we must defer to the Commission's interpretation of its own ratemaking authority. Although we certainly recognize the constitutional authority of the Commission, it is our duty to interpret the limit and extent of that authority, including whether the Commission's actions are authorized under section 3."). *See also* A.R.S. § 40-254.01 (requiring appeals from denial of an application for a rehearing in a rate case to be brought in the Court of Appeals).

[5] Ariz. Const. art. XV, § 12; *see also* A.R.S. § 40-334 (prohibiting discrimination between persons, localities, or classes of service as to rates, charges, service, or facilities)

[6] Decision No. 79293 (March 5, 2024), pp. 285 and 449. "DG" stands for distributed generation, which is rooftop solar.

[7] Decision No. 79293 at 282.

[8] APS Reply Brief at 43.

extreme outlier in the world of cost of service studies."[9] As AriSEIA/SEIA observed in their closing brief: "APS is the only entity that we have seen that used this construct, and the Company itself was unable to identify any other utility anywhere in the country that utilized a site load framework in its COSS models."[10]

In APS's 2019 rate case,[11] the Commission did not accept APS's site load COSS.[12] In its Decision in that case, the Commission eliminated the Grid Access Charge ("GAC") paid only by residential solar customers because "the record contain[ed] no evidence that might justify treating DG solar customers differently."[13] The Commission ordered APS to identify extra costs it incurs to serve residential DG customers "beyond the costs of providing their delivered power and energy" in its next rate case.[14]

At the hearing for this rate case, APS's witness Ted Geisler "clearly stated that there are no extra costs to serve DG customers, that the issue is that the amount of revenue recovered due to their **reduced consumption** does not cover their cost of service."[15] Another APS witness, Jamie Moe, "was not able at hearing to identify with confidence any specific additional costs from equipment, upgrades, additions, or services that APS incurred as a direct result of customers installing rooftop solar, although he believed that there are such costs."[16] "Additionally, Mr. Geisler very candidly stated that there are no extra costs; there are just costs that are not covered by only the revenue generated through delivered load."[17] The Commission therefore found that: "The evidence of record in this matter now makes it clear that APS does not truly provide additional services and does not use additional equipment to serve DG customers."[18]

Despite this finding, the Commission concluded that because APS provides

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[9] AriSEIA/SEIA Closing Brief at 22.
[10] *Id*.
[11] Docket No. E-01345A-19-0236.
[12] Decision No. 78317 (November 9, 2021)at 264.
[13] *Id*. at 358.
[14] Decision No. 78317 at 433.
[15] Decision No. 79293 at 263, FN 485 (emphasis added).
[16] *Id*.at 272, FN 492 (internal citations omitted).
[17] *Id*.
[18] Decision No. 79293 at 271- 72.

resource adequacy ("RA") to its residential DG customers, *i.e*. the Company's "generation resources stand by at all times to provide capacity" when needed, similar to the way it provides RA to its AG-X customers, it is then "just and reasonable to allocate costs of service to DG customers based on site load"[19] like AG-X customers.[20]

First, it is not appropriate to compare residential DG customers (with systems measured in kilowatts) with AG-X customers. Residential DG customers consume a significant share of their homes' power requirements from APS every day by contrast, APS's AG-X customers are large commercial or industrial users that procure *megawatts* of power from an alternative provider and take power from APS only when those providers are unable to supply generation, a scenario which occurred less than 1% of the time during the test year.[21]

Second, providing RA to all residential customers is what APS must do simply as a function of its operation as an electric utility monopoly. APS must be prepared to provide capacity and energy to its over one million residential customers, regardless of whether any increase in demand for energy comes from decreased production from residential DG or from customers simply turning on more appliances than usual. APS's own witness, Mr. Moe, testified "that unanticipated increases and decreases in load are normal for residential customers and that APS does not encounter difficulty in serving customers when their loads are unexpectedly higher or lower than normal."[22]

Finally, the Commission's acceptance of APS's site load COSS ignores the substantial evidence that APS does not incur extra costs from providing RA to residential DG customers above what it takes to serve their delivered load. Thus, it is discriminatory

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[19] Decision No. 79293 at 272.
[20] *See* Decision No. 79293 at 254-55.
[21] *See* Moe Rebuttal at 9. ("Mr. Joiner testified that AG-X customers are predominantly served with market energy contracts that are not required to be tied to any generation resource or resource portfolio. For this reason, those market-based resources can be curtailed at any time, including during critical peak hours when resources are scarce and replacement power is very expensive, moreover, Mr. Joiner testified that such circumstances are becoming more frequent in the Western United States region. Already the failure of AG-X deliveries has become all too common; during the summers of 2020, 2021, and 2022, there were instances where up to 76% of all AG-X energy supplies failed to deliver (out of a 200 MW program)." APS Initial Post-hearing Brief, at 58-59.
[22] Decision No. 79293 at 265-66.

and not just and reasonable to allocate costs to non-solar residential customers based on delivered load and to residential DG customers based on site load.[23]

B. The additional charge is discriminatory because solar and non-solar residential customers receive power uniformly.

The Commission concluded that the additional charge for residential DG customers is not discriminatory because the "exporting of energy to APS's system alone results in rooftop solar customers on TOU-E and R-3 not receiving 'the same service under like circumstances' or 'substantially the same or similar service' as non-rooftop solar customers on TOU-E and R-3."[24] This may be the case for power exported to the grid, but not for power **RECEIVED** by customers from the utility. As such, it is discriminatory and is not just and reasonable to place residential DG customers is a separate class for purposes of the COSS.

The Commission attempts to justify this discriminatory charge as "movement toward rate parity"[25] and that "there is a sizable disparity between the extent to which rooftop solar customers on TOU-E and R-3 cover their costs of service as compared to non-rooftop solar customers on TOU-E and R-3."[26] However, as discussed above, the charge is based on a fatally flawed COSS. Simply put, the so-called subsidies do not exist. Residential DG customers pay less because they purchase less energy from APS.

In *Town of Wickenburg v. Sabin*, the Arizona Supreme Court stated:

> 'The rule forbidding unjust discrimination has been variously expressed: **The charges must be equal to all for the same service under like circumstances**. A public service corporation is impressed with the obligation of furnishing its service to each patron at the same price it makes to every other patron for the same or substantially the same or similar service. It 'must be equal in its dealings with all.' It 'must treat the members of the general public alike.'[27]

This discriminatory charge is not just and reasonable as it effectively penalizes residential

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[23] Ariz. Const. art. 15, § 3 (classification of consumers must be "just and reasonable.")
[24] Decision No. 79293 at 285-86.
[25] Decision No. 79293 at 285.
[26] Decision No. 79293 at 285.
[27] 68 Ariz. 75, 77 (1948) (quoting 4 Eugene McQuillan, Mun. Corps. § 1829 (2d. ed. 1937) (emphasis added).

DG customers for reducing their consumption of electricity from APS. Residential DG customers **receive** power from APS the same as residential non-rooftop solar customers. The Commission's attempt to justify putting residential DG customers in a separate class based on their "partial requirements" status, RA, and load patterns[28] ignores the fact that residential solar and non-solar customers both **receive** the same power from APS daily in varying amounts, RA is "intrinsic to the provision of electricity service for all customers and not uniquely required to serve solar customers,"[29] and the significant variation that exists (with or without solar) in load patterns for the residential class as a whole. Residential DG customers should not receive an increase in rates greater that non-solar residential customers. To do otherwise runs afoul of the Arizona Constitution and A.R.S. § 40-334.

C. <u>The circumstances of the approval of the additional charge for residential solar customers violated the parties' due process rights to meaningful participation.</u>

Relatedly, the Commission's approval of the additional charge for residential solar customers violated parties' due process rights to meaningfully participate in the rate case. Parties to quasi-judicial proceedings like rate cases are entitled to notice of the proceeding and an opportunity to meaningfully participate in it.[30] Meaningful participation depends on the context of the proceeding.[31] Quasi-judicial proceedings should be conducted with the "very appearance of complete fairness" to protect parties' due process rights.[32] *Sub silento* departures from announced policy, like the additional charge for rooftop solar customers the Commission sprung on the parties here, are constitutionally disfavored.[33]

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[28] Decision No. 79293 at 285-86.
[29] Vote Solar Brief at 12.
[30] *Wales v. Arizona Corp. Comm'n*, 249 Ariz. 263, 266–67. (App. 2020). The Commission's regulations recognize that parties have due process rights. *See* A.A.C. R14-3-104(A).
[31] *Id.*
[32] *Horne v. Polk*, 242 Ariz. 226, 234 (2017) ("[T]he circumstances here deprived them of due process. . . . A quasi-judicial proceeding 'must be attended, not only with every element of fairness but with the very appearance of complete fairness.'").
[33] *FCC v. Fox Television Stations, Inc*., 556 U.S. 502, 515 (2009).

In this rate case, APS did not request an additional charge for residential solar customers at any point, nor did any party propose one.[34] The administrative law judge's January 25, 2024 ROO *sua sponte* introduced the charge for the first time—after the administrative record had closed. The Decision purports to sidestep this obvious due process flaw with a citation to APS's February 16, 2023 Public Notice of these proceedings, which states: "The final rates approved by the Commission may be higher, lower, or different than the rates proposed by the Company or by other parties."[35] However, that Notice also states, just one sentence prior, that "The Commission will determine the appropriate relief to be granted in response to APS's Application *based on the evidence presented in this matter*."[36] Here, the Commission made its *sua sponte* order based on incomplete and constitutionally insufficient evidence.

No party had any reason to introduce evidence to refute the factual basis for the surcharge because no party had requested, briefed, or discussed the possibility of such a charge at any time prior to the close of the administrative record. The Commission's imposition of the additional charge for residential solar customers without first providing any opportunity for a party to introduce evidence showing the short comings of the imposed surcharge plainly prejudiced the parties and denied them an opportunity to participate in a "meaningful manner," *i.e*., to present evidence on all of the issues to be decided by the Commission.[37]. The parties were also prevented from developing a full administrative record, making adequate judicial review of the Commission's actions impracticable.

Under these circumstances, the additional charge for residential solar customers cannot be authorized because the underlying proceedings were constitutionally infirm. At a minimum, the Commission should grant a rehearing to allow parties to introduce

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[34] *See* Arizona Solar Energy Industries Association and Solar Energy Industries Association Application for Rehearing/Reconsideration, docketed 31 March 2024, at 3-7.
[35] Decision No. 79293 at 284, n. 517 (*citing* Arizona Public Service Company's February 16, 2023 "Public Notice of Hearing and Public Comment Meetings on Arizona Public Service Company ('APS') Rate Application").
[36] Arizona Public Service Company's February 16, 2023 "Public Notice of Hearing and Public Comment Meetings on Arizona Public Service Company ('APS') Rate Application, p. 5 (emphasis added).
[37] *Wales*, 269 Ariz. at 267.

evidence into the administrative record refuting the additional charge for residential solar customers to properly preserve the issue for judicial review.

III. The SRB Mechanism is unlawful.

The SRB mechanism, as approved in the Decision, does not adequately ensure the Commission will carry out its constitutional mandate to set rates only after it was found the "fair value" of a utility's in-state property.[38] Further, the SRB's late-breaking introduction by APS prevented the parties from adequately vetting the proposal, prejudicing their due process rights, and generating an insufficiently robust administrative record to grant Arizona's largest utility company "a benefit beyond traditional ratemaking."[39]

A. The SRB's approach to fair value determinations is insufficient to guarantee just and reasonable rates.

The Commission's constitutional obligation to set "just and reasonable" rates requires that it determine the "fair value" of a utility's property.[40] Fair value must be set at the time of the rate setting proceeding, and the Commission must consider all relevant factors when making its fair value determination.[41]

There are few exceptions to the requirement that a rate increase can only be approved after a full "rate case."[42] In *Residential Utility Consumer Office ("RUCO") v. Arizona Corporation Commission*, the Arizona Supreme Court approved a "system improvement benefits mechanism" ("SIB") which would allow the Commission to adjust rates in between rate cases.[43] However, the SRB approved by the Commission here diverges from that judicially approved SIB mechanism in several, relevant respects. Unlike the SIB, the SRB does not require the Commission to approve surcharge-eligible

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[38] Ariz. Const. art. 15, § 14.
[39] Decision No. 79293 at 233.
[40] *Residential Util. Consumer Off. v. Arizona Corp. Comm'n*, 240 Ariz. 108, 113 (2016).
[41] *Simms v. Round Valley Light & Power Co*., 80 Ariz. 145, 151 (1956) ("Fair value means the value of the properties at the time of the inquiry[.]"); *Arizona Corp. Comm'n v. Arizona Water Co*., 85 Ariz. 198, 201–02 (1959) ("If the Commission abuses its discretion in considering these factors or if it refuses to consider all the relevant factors, the fair value of the properties cannot have been determined under our Constitution.")
[42] A.A.C. R14-2-103 (setting forth the procedural requirements for a determination of value of utility property and rate of return).
[43] *Residential Util. Consumer Off. v. Arizona Corp. Comm'n*, 240 Ariz. 108, 110 (2016).

projects in a rate case before APS applies to recover costs via a surcharge.[44] APS is also not required to return for a rate case as a condition of using the SRB.[45] Indeed, APS claims that the SRB will decrease the number of rate cases.[46]

In *RUCO*, the Arizona Supreme Court did not opine to what extent the SIB's project pre-approval and rate case comeback components were necessary for its constitutionality. However, the lack of either provision in the SRB approved here puts the Commission at substantial risk of not considering all relevant factors when making its fair value determinations. As a result, no rate increases approved under the SRB could satisfy the Commission's obligation to make a constitutionally sufficient fair value determination before approving a rate increase.[47]

When APS uses its last surcharge application, it will be at least five years since the Commission made a fair value determination in a full rate case proceeding.[48] The risk grows over time that lightly updated, summary financial information will not provide a sound basis for a constitutionally adequate fair value determination. Since SRB-eligible projects are not pre-approved in the preceding rate case, the Commission will not consider potential projects in the context of a broader, rigorous fair value determination. On the contrary, the Commission will be required to review APS's summary financial updates on a much faster timeline in an SRB proceeding than in a rate case. Expedited review will make it much more difficult for the Commission and for interested parties to scrutinize APS's provided information. This progressively more attenuated approach to fair value determinations risks abuse by APS (and by any other utilities that will surely look to secure for themselves a similar surcharge mechanism).

Restrictions on the number and frequency of SRB applications do not solve this problem. Even if APS is limited to one initial application and five reset applications between rate cases, the Company could over-earn via a half-dozen SRB surcharges

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[44] *Id.* at 110–11.
[45] *Id*.
[46] Decision No. 79293 at 215:1.
[47] Ariz. Const. art. 15, § 14.
[48] Decision No. 79293 at 234:14-15.

without the accountability-forcing mechanism of a formal rate case. Moreover, subsequent SRB applications would be evaluated on the same, expedited timeline as the initial surcharge, raising identical concerns about fully considered fair value determinations. Ultimately, the lack of rigorous fair value determinations could produce unjust and unreasonable rates—especially if APS is correct that the SRB will reduce the frequency of formal rate cases.

B. Rushed consideration of the SRB prejudiced parties and did not generate an adequate administrative record to support its approval.

APS first proposed the SRB in its rebuttal testimony–more than 250 days after it filed its complete rate case application, and approximately a month before the rate case evidentiary hearing.[49] Multiple parties noted that the SRB did not receive adequate consideration given its late-breaking introduction by APS.[50] Indeed, the Commission, in rejecting Tucson Electric Power's ("TEP") very similar SRB proposal last year, found that parties could not adequately scrutinize the mechanism because it was introduced in TEP's rejoinder testimony shortly before hearings began.[51] Here, the Parties did not have adequate time to vet the SRB proposal, prejudicing their rights to meaningfully participate in the rate case.

The rushed consideration process also left the Commission without an adequate administrative record to justify the approval of the SRB. The Commission concluded the SRB was justified to improve the terms of APS' capital costs, to avoid rate shock from capital-intensive investments, to avoid in-service delays from third-party project developers, and to pass through savings to customers from federal tax credits earned by the Company when it develops new, credit-eligible projects.[52]

[49] Arizona Public Service Company's Notice of Filing Rebuttal Testimony, docketed 12 July 2023, at 8; Arizona Public Service Company's Application, docketed 28 October 2022; Decision No. 79293 at 31 (evidentiary hearing was on August 10, 2023).
[50] Joint Exceptions and Proposed Amendments to the Recommended Opinion and Order, docketed 12 February 2024 at Exhibit 3a; Sierra Club's Exceptions to the Recommended Opinion and Order, docketed 12 February 2024, at 19; RUCO's Exceptions, Docketed 12 February 2024, at 7.
[51] Docket No. E-01933A-22-0107 Decision No. 79065, docketed 25 August 2023, at 113:14-16.
[52] Decision No. 79293 at 232:2-24.

The administrative record does not support the Commission's conclusions. The Decision itself notes that APS's prognostications about being unable to finance new grid infrastructure are hyperbolic.[53] APS's experts testified that they would not speculate about the future availability of capital, regardless of whether the SRB were in place.[54] There is no indication in the record that the SRB would appreciably change APS's ability to attract capital–nor is there a suggestion that the incremental improvement in hypothetical financing terms from an SRB is necessary for just and reasonable rates. Fundamentally, the Commission-established return on equity is a more-than-adequate tool to ensure utilities can appropriately compete for capital.

Likewise, annual, 3% rate increases permitted by the SRB (which can be repeated five times, without a rate case) are just as likely to induce rate shock as the rate case-only approach. In fact, APS will be allowed to frontload capital cost recovery for generation projects through the SRB and then also come in for sizable rate increases in a traditional rate case. To the extent the Commission is worried about rate shock, it already has plentiful tools at its disposal to ensure capital investments are timely made and timely recovered, without the need for an additional surcharge mechanism.

Concerns about third party-developed project delays should be properly compared against the APS-owned alternative. APS too has had to delay in-service dates for several of its self-developed projects.[55] The administrative record does not substantiate why APS's control over the project would prevent global supply chain disruptions, or ensure other utilities or third-party developers will not out-compete APS for materials needed for new generation projects. But again, because APS did not introduce the SRB until its rebuttal, no party had a meaningful opportunity to develop the record to address this evidentiary insufficiency.

[53] Decision No. 79293 at 232:5-9.
[54] Arizona Large Customer Group's Exceptions to the Recommended Opinion and Order, docketed 12 February 2024, at 13 (*citing* 3 Trial Tr. Vol. III (8/14/2023), 591125-59222 (Cooper)).
[55] Arizona Large Customer Group Exceptions to the Recommended Opinion and Order at 15.

The claim that APS will more quickly and fully pass through the cost savings from tax credits than would third party developers is speculative at best. Competitive resource procurement ensures developers are highly motivated to pass through as many savings as possible to secure the contract–including tax credits. The record does not support the conclusion that there is a differential in the passthrough of savings between APS-owned and third party-owned projects. And assuming there is a difference, it is too slight to justify such a sharp departure from historically effective ratemaking practices.

A rehearing on the SRB mechanism is necessary to remedy these constitutional and evidentiary shortcomings**.** At a minimum, the Commission should amend the Decision to include a requirement that APS come in for a full rate case every five years and should require that the Commission pre-approve assets for recovery through the SRB mechanism in a rate case preceding any SRB surcharge or reset application. These revisions would maintain the purported benefits of the SRB for APS and its customers, while maintaining an appropriate level of constitutionally mandated oversight of this otherwise pathbreaking departure from long-effective ratemaking practices.

IV. Conclusion

For the many reasons set forth herein, the Commission fell short of its constitutional obligations when it approved Decision No. 79293. The State strongly urges the Commission to reconsider the Decision, grant this Application for a rehearing, and either eliminate the unconstitutional provisions altogether or set a rehearing that will allow the parties to develop the evidentiary record required for a constitutional decision to issue. The State expressly reserves the right to seek all available remedies on appeal, including disgorgement of all unconstitutional rates collected pursuant to Decision No. 79293.[56]

[56] *See Mountain States Tel. & Tel. Co. v. Arizona Corp. Comm'n*, 124 Ariz. 433 (App. 1979) (affirming an order of Commission requiring utility to refund excess rates collected between date of Commission's final order approving rates and date of Court of Appeals' decision holding certain rates unconstitutional).

RESPECTFULLY SUBMITTED this 25th day of March, 2024.

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