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Tucson, AZ 85743

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September 17, 2010

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Arizona Corporation Commission

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SEP 21 2010

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Honorable Kristin K. Mayes  
Chairman, Arizona Corporation Commission  
Commissioners Wing  
1200 West Washington  
Phoenix, AZ 85007-2996

DOCKETED BY	
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Re: Docket No. E-01933A-09-0340  
Agenda Item No. U-23, aka The Marana Project

Dear Chairman Mayes:

I'm writing to update the Commission on happenings subsequent to my attendance at the Hearing on April 1, 2010 in respect to the Docket and Agenda item shown above, The Application of Tucson Electric Power Company for Approval of its Renewable Energy Standard and Tariff Implementation Plan.

I'm enclosing a copy of the Reporter's Transcript of Proceedings, in which I have highlighted pertinent comments made by Commissioners Newman and Kennedy, Mr. Dion and Mr. Hutchens directly related to The Marana Project. Also enclosed is a copy of my complaint to the Commission dated August 18, 2010 and the response. As you will see by the complaint and response, we've lost that lovin' feelin' that was in abundance at the Hearing on April 1, 2010.

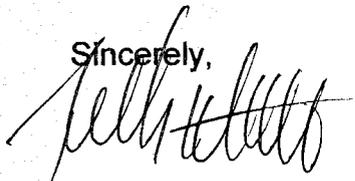
Since the Hearing I have had one fifteen-minute meeting with Joe Salkowski, Carmine Tilghman and one of their attorneys, at my home immediately prior to Tucson Water's public gathering in May. There was no outcome. They stopped by on their way to the meeting to hear what Tucson Water and Fotowatio were about to articulate to the residents of the area.

In response to my complaint to the Commission, filed on August 18, 2010, Tucson Electric Power indicated they had been in "regular communication" with me, which is completely untrue. The one fifteen-minute meeting mentioned above is the ONLY contact I have had with Tucson Electric Power since the Hearing. And that was literally a drive-by.

You told me that you "put these guys through their paces. We put utilities through their paces". I now fully understand why you do what you do. I'm one of the members now of the public that wants you to do that. I personally feel like they are putting me through their paces.

I would like to request that at your next Open Meeting with Tucson Electric Power that I be permitted to address the Commission with continuing concerns. I am the LONE landowner whose home will be markedly affected by this project. I am once again standing alone with the 800 pound gorillas and I want and need the Commission's assistance to keep me from losing what I've worked hard for in the past 29 years.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Westfall", written in a cursive style.

Rick Westfall  
520-907-6969

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BEFORE THE ARIZONA CORPORAT

IN THE MATTER OF THE APPLICATION	)	DOCKET NO.
OF TUCSON ELECTRIC POWER COMPANY	)	E-01933A-09-0340
FOR APPROVAL OF ITS RENEWABLE	)	
ENERGY STANDARD AND TARIFF	)	AGENDA ITEM NO. U-23
IMPLEMENTATION PLAN.	)	OPEN MEETING

RECEIVED  
 2010 APR 14 A 11:17  
 AZ CORP COMMISSION  
 DOCKET CONTROL

At: Phoenix, Arizona

Date: April 1, 2010

Filed: APR 14 2010

REPORTER'S TRANSCRIPT OF PROCEEDINGS

AGENDA ITEM NO. U-23

Arizona Corporation Commission  
**DOCKETED**

APR 14 2010

DOCKETED BY	<i>MM</i>
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ARIZONA REPORTING SERVICE, INC.  
 Court Reporting  
 Suite 502  
 2200 North Central Avenue  
 Phoenix, Arizona 85004-1481

By: MICHELE E. BALMER  
 Certified Reporter  
 Certificate No. 50489

Prepared for:

ACC

**ORIGINAL**

1 BE IT REMEMBERED that an Open Meeting was held at  
2 the Arizona Corporation Commission, 1200 West Washington  
3 Street, Phoenix, Arizona, commencing at 10:00 a.m. on the  
4 1st day of April, 2010.

5

6 BEFORE: KRISTIN K. MAYES, Chairman  
7 GARY PIERCE, Commissioner (Telephonic)  
8 PAUL NEWMAN, Commissioner  
9 SANDRA D. KENNEDY, Commissioner  
10 BOB STUMP, Commissioner

11 Shaylin Bernal, Secretary  
12 Carolyn Buck, Secretary

13

14 PARTICIPANTS:

15 For the Arizona Corporation Commission:

16 Mr. Robert Gray

17

18 For Tucson Electric Power Company:

19 Mr. Philip J. Dion  
20 Mr. David Hutchens

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MICHELE E. BALMER  
Certified Reporter  
Certificate No. 50489

1 (10:50 a.m.)

2 CHMN. MAYES: We'll go to 23, TEP's application  
3 for approval of its RES plan, contracts and projects, and  
4 that is a Staff item as well. Mr. Gray.

5 MR. GRAY: Madam Chair, Commissioners, Bob Gray  
6 with Commission Staff. This item is a filing by TEP  
7 requesting approval of a number of purchased power  
8 agreements and projects. This stems out of the 2010 TEP  
9 REST plan filing that the Commission addressed at the  
10 January Open Meeting. And Staff has reviewed the projects  
11 and is recommending that the Commission not provide full  
12 approval, but that the Commission identify that the  
13 projects are compatible with TEP's energy portfolio and  
14 that they meet the definitions of eligible renewable  
15 energy resources under the REST rules.

16 Staff further recommends that the Commission not  
17 find -- make findings on the prudence or provide a full  
18 approval of the contracts at this time.

19 CHMN. MAYES: Okay. Thank you, Mr. Gray.

20 And Mr. Dion, and then we have someone who has  
21 come to provide public comment on this item, too.

22 MR. DION: Thank you, Madam Chairman. Phil Dion  
23 on behalf of Tucson Electric Power. We support this. We  
24 look forward to moving -- look forward to moving forward  
25 on these projects. I appreciate Staff's effort on this as

1 well.

2 CHMN. MAYES: Okay, thank you. And then I have  
3 Rick Westfall. Rick, and thank you for coming back. I  
4 know you also had to stay and -- or came yesterday, and we  
5 got behind schedule. So we apologize for that.

6 MR. WESTFALL: Thank you, Madam Chairman,  
7 Commissioners. My name is Rick Westfall. I live at 8855  
8 North Sanders in Tucson, Arizona. I am adjacent to the --  
9 and I'm going to refer specifically to the TEP solar farm,  
10 because I don't have any other name for it.

11 CHMN. MAYES: The Marana project.

12 MR. WESTFALL: The Marana project. If any of you  
13 have seen a site map, you will understand that this  
14 literally encompasses my entire property and my back door,  
15 which I have lived at for almost 17 years.

16 When I started to find out about this, literally  
17 within this year, and the lease was approved on  
18 February 17, I began gathering information. TEP was very  
19 cooperative. Carmine Tilghman was extremely helpful.  
20 Fotowatio, who is the developer for other words, has  
21 contacted me this week and provided some things for me.

22 With that in mind, I sent multiple e-mails and  
23 phone calls to each of you and only received response from  
24 two or three of you. Others I have not received anything  
25 yet. Chairman Mayes, Commissioner Kennedy, and

1 Commissioner Pierce responded. Mr. Newman, I have heard  
2 nothing from your -- Commissioner Newman, I have heard  
3 nothing from your office or Commissioner Stump.

4 COM. NEWMAN: We're hear today listening to you  
5 interact.

6 MR. WESTFALL: So what I have tried to do is  
7 gather as much information about this project as I can,  
8 because I have concerns about my family, my property, and  
9 my community. With that, we've been seeking information,  
10 and slowly but surely we've started to receive some.

11 Some of the things that are very promising is  
12 that it's going to create literally a new job field in  
13 this community. I know that the county and the City of  
14 Tucson, the Town of Marana, everyone has a stake and an  
15 interest in this. And it would have been nice if we had  
16 known a little sooner some more about it, some of the  
17 things that are taking place and what is happening.

18 I don't think that it affects near the people  
19 that it normally would, but literally I am the only  
20 adjacent property owner to this piece of property, and at  
21 this point haven't had the opportunity to discuss it with  
22 very many people, or really get any hard answers or see  
23 what is going to be there. But if it continues, there's  
24 going to be 96,000 of their PV panels become my immediate  
25 neighbors in the very near future. And I would like to be

1 able to find out a little more about it. We're obviously  
2 headed that way and green is going to be good, but as I  
3 sat here yesterday -- and I must admit, I have never  
4 attended a Corporation Commission meeting before. I'm  
5 amazed today to see that Mr. Dion is even standing and not  
6 in a full body cast. But with that said --

7 COM. NEWMAN: He was treated very nicely  
8 yesterday.

9 MR. WESTFALL: You scared John Q. Public to  
10 death. There's plenty of suits in here, and I was trying  
11 to run the tally in my head. They need to sit on each  
12 side so I can see who is on the teams.

13 I'm just amazed that you're standing, and I hope  
14 I never meet you in an alley.

15 With that said, this is obviously where we're  
16 headed. We need to be sensitive to the people that are  
17 involved. It needs to be a win/win situation for  
18 everybody, and I appreciate that.

19 Those are my comments and my feelings, and I  
20 wanted to make sure that they were part of the record.

21 CHMN. MAYES: Okay. And we appreciate you coming  
22 up and taking the opportunity to provide public comment.  
23 And as for Mr. Dion, we do put these guys through their  
24 paces. We put utilities through their paces, but there's  
25 a lot of members of the public here, and I think they

1 would want us to do that. So if he's a little beat up,  
2 then, well, that's what the Constitution calls for.

3 But wait a second, real quickly. Have you  
4 received information from the utility and from, I believe  
5 it's the City of Tucson, to your satisfaction about the  
6 project? I'm a little confused about what you said today.  
7 It seems like you're supportive but you have reservations.  
8 So if there's information that you're not getting, then  
9 maybe we can work on that today.

10 MR. WESTFALL: There has not been any information  
11 disseminated at this point, as I understand it.

12 CHMN. MAYES: To you personally or --

13 MR. WESTFALL: There's been discussions that  
14 have -- like I said, it did not even begin until  
15 February 17, and after -- that was the evening. And I may  
16 be off a day or so on the lease, whenever the lease was  
17 approved by the City of Tucson.

18 You've got four or five government entities  
19 involved here and two private companies, and a large -- as  
20 I understand it, this is one of the largest solar projects  
21 in the country, and it's just about shovel ready. Short  
22 of some permitting, I mean, we're within six or eight  
23 months, and it's one of the largest ones in the country.  
24 And at this point there's little or no information. And I  
25 don't think it's anybody's fault that it's happened. I

1 mean, I don't know what the process is. That's why I'm  
2 here and it's why I've tried to contact everybody so I  
3 could find out what the process was so I would have input  
4 on it.

5 CHMN. MAYES: And let me just -- I'll go to  
6 Mr. Dion in a second -- but Mr. Westfall, one of the  
7 reasons that there may not have been as much process  
8 surrounding this solar project as there might have been a  
9 larger one, an even larger one, my guess is it doesn't  
10 have to go through our line siting process, which means --

11 MR. WESTFALL: That's what I understand, yes,  
12 ma'am.

13 CHMN. MAYES: And it's a legal issue. I mean,  
14 it's a pure statutory, legal issue that for only projects  
15 that are thermal and 100 megawatts or higher have to go  
16 through the siting process. That being said, that doesn't  
17 mean that these folks shouldn't have reached out to you.

18 So Mr. Dion, can you react?

19 MR. DION: Madam Chairman, yes, I can. I know  
20 that Mr. Westfall has been in contact with Mr. Tilghman,  
21 who is in our resource planning division. And I certainly  
22 will contact Mr. Westfall to see what else he needs. The  
23 other part of the project is the developer's project. And  
24 until they lease that land and until they get all of those  
25 approvals, I'm not sure the information that they can

1 provide Mr. Westfall. So until those first things begin  
2 to happen as far as the movement towards the development  
3 of this project, until some of those things are taken care  
4 of, then the information that we do have as well is  
5 preliminary.

6 But I will work with him. I will work with -- I  
7 will continue to work with him. Mr. Tilghman has done  
8 some of that. We will continue to that. And as more of  
9 these pieces -- as the puzzle gets put together, we'll  
10 also have a better snapshot as well. They had to get this  
11 land, they had to get the leases, they had to move through  
12 the city. There were a number of things that had to be  
13 done in order for the project to really begin to take its  
14 full shape.

15 CHMN. MAYES: Okay. And we'll go to Commissioner  
16 Newman. He's on the board.

17 But Mr. Westfall, so your property is -- abuts  
18 the project directly, or can you describe that a little  
19 more?

20 MR. WESTFALL: If you will take -- does somebody  
21 have a blank piece of paper, and I can show you very  
22 quickly. I'll be happy to give this to whoever would  
23 like.

24 If this is a 305-acre piece of property, I own  
25 the southeast corner at the section corner, everything.

1 COM. NEWMAN: How big is your property?

2 MR. WESTFALL: Mine is 10.6 acres. And the way  
3 that they've come so far -- and again, my purpose here  
4 today is not to lay blame with TEP. That's not it. TEP  
5 has cooperated to this point. Everybody -- it's like  
6 dancing with a couple of 800-pound gorillas. Everybody is  
7 trying to figure out how to get this done, but everyone is  
8 afraid to make the first move until they see where  
9 everything is headed.

10 I have no complaints with anyone at this point,  
11 other than maybe in the next project they should be out  
12 working with the community. And I don't mean just them.  
13 I mean whoever it is. There's a lot of pieces to this  
14 deal.

15 CHMN. MAYES: Yeah.

16 MR. WESTFALL: There is a lot. But as I said,  
17 we're in a very beautiful rural setting. I have thousands  
18 of acres around me that are vacant and have been that way.  
19 And like I said, I'm going on 17 years. I have raised my  
20 family there. This is -- I have been in this community  
21 for 30 years down there.

22 I am concerned about 96,000 neighbors, which is  
23 how many PV panels are going to be going up, that's a  
24 given, and how it's going to be handled. That's not a  
25 problem for TEP. It's not a problem for Fotowatio. It's

1 a feeling that I have that I'm concerned about, and I want  
2 to make sure that it's in the record somewhere.

3 When I started having a little consternation was  
4 when I was trying to find more information, and I didn't  
5 get it. I mean, TEP did what they could. Fotowatio did  
6 what they could. Mr. Gray -- is that correct? -- was very  
7 helpful. I spoke with him and he was very helpful, so  
8 your Staff has worked well. There's just a few things  
9 that could be smoothed out somewhere.

10 And it's a huge project. I mean, it may not be  
11 huge in terms of what TEP does or UniSource or whatever,  
12 but to me it's gigantic.

13 CHMN. MAYES: Okay. Commissioner Newman.

14 COM. NEWMAN: Yeah. I just wanted to -- I also  
15 wanted to give you a perspective a little bit about how  
16 these plans come about. The utilities have a lot of  
17 discretion on how they're going to meet our mandate of  
18 getting more renewable energy by certain dates. And yes,  
19 we have plans and we work with Staff on plans, but in  
20 many, many cases we -- well, in all cases we don't --  
21 we're not involved in the negotiations over those plans.  
22 The first time we sit down is in hearings and talk about  
23 what they're doing and what they're not doing and reject  
24 or accept their plans.

25 So, you know, I knew about this project because,

1 actually, I had talked to -- the mayor of Tucson is  
2 actually interested in this project, too, and so I had  
3 known about this project. But where it was or how it was,  
4 I don't know.

5           What I was going to ask you about was you're not  
6 saying that you're against the project per se, but would  
7 you have setbacks? Or what is it that would make your  
8 life easier, if there is anything that can make your life  
9 easier. I just want to -- I need to ask you that  
10 question.

11           MR. WESTFALL: And I guess at this point I can't  
12 answer that question, because I haven't seen anything  
13 other than a picture.

14           COM. NEWMAN: Okay.

15           MR. WESTFALL: I know that in my discussions with  
16 Fotowatio, I asked for them to arrange for us to visit a  
17 site similar that would be representative of what we're  
18 going to get. I guess in -- there's other people that  
19 need to be involved because of the way the property line  
20 is fit, but really, I am the only adjacent property owner.  
21 Everything else has natural boundaries or manmade  
22 boundaries that prohibit them from that. Like I said,  
23 this is the property. That's all there is to it.

24           COM. NEWMAN: Well, I'm a former county  
25 supervisor, a former legislator, so I'm looking at this

1 from sort of a zoning standpoint of would you want to see  
2 the solar systems from your backyard, or would you like to  
3 be walled? That's an example of something --

4 MR. WESTFALL: Again, I think we're getting the  
5 cart before the horse there, but there's going to have to  
6 be something that is done to cover that. There is some  
7 extra property in this section that is not being  
8 completely utilized, but I don't -- in part with this  
9 approval, and I think everything is hinged on today's  
10 approval, yesterday's approval, whatever it is.

11 And I'm not even sure the approval is an  
12 approval. I mean, when you read it, you're not sure if  
13 it's approved or not approved, and we're expecting these  
14 people to invest hundreds of millions of dollars and  
15 there's really no real guidance for them. We kind of like  
16 it, but we don't like it, and we're not sure that you're  
17 paying the right price, but maybe you should go ahead and  
18 do it anyway.

19 COM. NEWMAN: Well, these projects that are  
20 picked by TEP have been -- there are thousands of projects  
21 out there in Arizona, believe it or not, in all of  
22 Arizona. There are an incredible amount of people who  
23 like to build solar and wind projects here, and only a few  
24 get through the cracks. In fact, we have lots of  
25 complaints about that.

1           But what I would suggest to you is that because  
2 it's proprietary involving the contract that will be  
3 signed by TEP with another -- several other entities, most  
4 likely, that you almost have to work with them. But you  
5 have my good faith statement today saying that, you know,  
6 I will make sure -- I'm actually going to make sure that  
7 Mr. Dion works with you, because I understand what you're  
8 facing.

9           And it will also go through the Tucson  
10 authorities as well that will have setback requirements.  
11 And I know for something like this, on the County Board of  
12 Supervisors, we would have been looking at fencing, you  
13 know, appropriate fencing, nice fencing, you know, things  
14 like that to help. But that is something that is going to  
15 have to be passed to the mayor and council and the  
16 Planning and Zoning Commission of Tucson. So yes, it's  
17 going to be a long process.

18           But to say that these projects won't go ahead,  
19 they're speculative in some ways because there needs to be  
20 capitalization, everything needs to all fit together. But  
21 if TEP is saying yes to this project, they think it's a  
22 really good project, they've reviewed hundreds of  
23 projects, and this project came to the top of the fore,  
24 for whatever reason. So it will, in all likelihood,  
25 happen if this economy provides enough capital for this

1 project.

2           So you have my office now to talk to about --  
3 make sure that everyone's dotting their i's and their t's  
4 at the planning commission, and I will work with Mr. Dion  
5 to make sure that happens. I'm doing that just because I  
6 think I should.

7           MR. WESTFALL: Commissioner Newman, I appreciate  
8 it. I think you're the only one south of Maricopa.

9           COM. NEWMAN: Yes. I'm sort of the southern  
10 Arizona.

11           MR. WESTFALL: And being from Bisbee, you  
12 understand our lifestyle and how things are.

13           COM. NEWMAN: Yes.

14           MR. WESTFALL: And I live on a very unique piece  
15 of property. Again, TEP has not done anything that's  
16 wrong. I'm not here to complain about the way they've  
17 done things. As I said, I will commend Carmine Tilghman.  
18 He's done a good job. The issue is that we've got a town  
19 that wants to annex it because they want to be green.  
20 We've got a county that wants to keep it because they want  
21 to be green.

22           COM. NEWMAN: I was thinking about that.

23           MR. WESTFALL: We've got the City of Tucson that  
24 wants to participate because they get a little revenue  
25 from some property. And I'm really the only one that's

1 getting affected in all of this. And so I just wanted to  
2 make sure that there was a record here. There's seven  
3 800-pound gorillas and me, and I can't really hold my own  
4 against those seven.

5 CHMN. MAYES: Well, I think so far you have. And  
6 we are making a record. Your words are being transcribed.

7 Commissioner Kennedy has a question.

8 COM. KENNEDY: Madam Chairman, Mr. Dion, I'm not  
9 sure if I missed this or not. Can you kind of walk me  
10 through TEP's process for working with adjacent landowners  
11 on projects such as this?

12 MR. DION: Madam Chairman, Commissioner Kennedy,  
13 essentially it's very similar to the process that you will  
14 see and you do see in the CEC process. It's basically  
15 that same process.

16 I think the gentleman to my left has done an  
17 excellent job in showing how this one is a lot different  
18 than some of the normal CEC processes that we have.  
19 There's a good deal of government interest that has  
20 affected and will continue to affect this process.

21 But I do commit to -- we will continue to work  
22 with him, and that's in our best interest to do that, as  
23 well as his.

24 COM. KENNEDY: Okay. Madam Chairman, Mr. Dion,  
25 so I'm hearing you say that he missed his phone call or he

1 missed his letter in the mail saying that this project was  
2 going to commence?

3 MR. DION: No. Let me move that to Mr. Hutchens  
4 on that particular question.

5 MR. HUTCHENS: Chairman Mayes, Commissioner  
6 Kennedy, this project isn't really a project until we vote  
7 this approval, and that's really when the clock starts  
8 ticking and that's when we would really be getting  
9 involved with folks like Mr. Westfall.

10 So in this sort of design and concept phase, we  
11 haven't been doing a lot of outreach. So there's plenty  
12 of time. I know we want to break ground on this as quick  
13 as possible, but there's plenty of time for that  
14 discussion and make sure that we mitigate any effect that  
15 it might have on Mr. Westfall and his property.

16 So once we say yes on this contract, then  
17 Fotowatio and their folks are really going to start  
18 cranking to get this done, and that's sort of when the  
19 process really begins.

20 COM. KENNEDY: I understand that. I think you're  
21 missing just a small piece of the puzzle. There have been  
22 communications, or many communications, with lots of  
23 people but Mr. Westfall or landowners around that area.  
24 And I guess I'm just trying to figure out, you have been  
25 communicating with governmental entities but not with

1 landowners? I just want to make sure I'm hearing that.

2 MR. HUTCHENS: Chairman Mayes, Commissioner  
3 Kennedy, that's correct. We were trying to make sure that  
4 this was a viable site, which meant we had to get the City  
5 of Tucson who actually owns the land in the county, with  
6 the City of Marana looking, you know, for annex  
7 possibilities, et cetera. So we were working with those  
8 folks to see whether or not this was even a viable site.  
9 So we really have, to date, just got to the point of  
10 whether or not this project is viable.

11 Now as soon as we -- and contractually, it  
12 doesn't mean anything until we get the Commission  
13 approval. After that, boom, we're off to the races. We  
14 start contacting these people.

15 Now, let me caveat that with we're new to these  
16 huge solar developments, as you all know. This is a very  
17 big project. And we are getting some lessons learned, and  
18 one of those that's coming loud and clear is we've got to  
19 make sure that when we're looking at these properties,  
20 whether it's us or developers, we need to make sure that  
21 on the front end we're looking and seeing who we might  
22 affect in adjacent property owners. And we will take care  
23 of that going forward on additional projects which we hope  
24 to bring to you soon.

25 COM. KENNEDY: Okay. One more question. Is

1 there anything that precludes the county, the city, TEP,  
2 from doing a community outreach during the concept or  
3 design phase?

4 MR. HUTCHENS: Chairman Mayes, Commissioner  
5 Kennedy, no, there's not, and that's the lesson learned.

6 COM. KENNEDY: Okay. I just wanted to hear that.  
7 Thank you.

8 CHMN. MAYES: Thank you, Commissioner Kennedy.

9 Thank you, Mr. Westfall. And if you could be in  
10 contact with us in the future, if you have any other  
11 issues, I would be very interested to see how your issues  
12 are resolved by the company.

13 MR. WESTFALL: Thank you very much. I appreciate  
14 your time.

15 CHMN. MAYES: Okay.

16 COM. NEWMAN: Thanks for coming up.

17 CHMN. MAYES: All right. I don't see any other  
18 public comment.

19 I do have just a real quick question of Mr. Dion.  
20 So you said that you support the item. And do I take it,  
21 then, that that means that you will move forward with the  
22 execution of the contracts that are at issue in the order?

23 MR. DION: Madam Chairman, we are ready, willing,  
24 and able, yes.

25 CHMN. MAYES: Is that a yes?

1 MR. DION: Yes.

2 CHMN. MAYES: So these projects will move  
3 forward, and they will be a part of your compliance with  
4 the Renewable Energy Standard.

5 MR. DION: Yes.

6 CHMN. MAYES: Okay. Is there any reason for  
7 hesitation in that answer?

8 MR. DION: The only caveat, Madam Chairman, is  
9 that now this moves to the development part of the stage,  
10 and so there's some things that if for some reason the  
11 developer doesn't want to move forward, that's the only  
12 qualified yes I would just like to make for the record.

13 CHMN. MAYES: Okay. All right. So did you move  
14 it? I wouldn't let you move it. That's right. You tried  
15 to.

16 COM. KENNEDY: Madam Chairman, I move Item U-23.

17 CHMN. MAYES: Okay. U-23 has been moved by  
18 Commissioner Kennedy. Any other comments or questions?  
19 Everybody okay? Okay.

20 Madam Secretary, please call the roll.

21 SECRETARY BUCK: Commissioner Kennedy.

22 COM. KENNEDY: Aye.

23 SECRETARY BUCK: Commissioner Stump.

24 COM. STUMP: Aye.

25 SECRETARY BUCK: Commissioner Newman.

1 COM. NEWMAN: Madam Chair, I was going to ask a  
2 question or two. I perhaps missed my opportunity because  
3 we're voting.

4 CHMN. MAYES: Yes, we are.

5 COM. NEWMAN: Well, I'm going to vote yes on  
6 this, and I'll try to explain my vote with the issues that  
7 I think also need to be addressed, which is I noticed in  
8 this first cut of projects that have made the cut for  
9 whatever reason, however your internal ratings in your  
10 organization, you know, get you to the 2.5 percent  
11 renewable energy by 2010, which is what we will do today.

12 As you know, I have had concerns regarding what I  
13 think is a promising project in Pima County's project.  
14 And you can't respond to me now, but I just wanted to make  
15 sure that it's on the record that back on March 26, 2010,  
16 Chuck Huckleberry wrote the ACC a letter. I never spoke  
17 to Mr. Huckleberry personally, but have been trying to  
18 respond to his letter.

19 His letter requests that the ACC allows -- would  
20 allow \$6- to \$12 million in TEP's unused residential RES  
21 funds for projects involving aggregated net metering,  
22 which could help the taxpayers of Pima County.

23 So I vote yes on this, but I am not happy that we  
24 have not progressed with Pima County's desire to try to  
25 set up an aggregated net metering, which I think is to the

1 benefit of many, many taxpayers in Pima County. I know  
2 you can't respond to it now, but I would like a response  
3 in a letter.

4 And I vote yes.

5 SECRETARY BUCK: Commissioner Pierce.

6 COM. PIERCE: I vote aye.

7 SECRETARY BUCK: Madam Chair Mayes.

8 CHMN. MAYES: Well, I appreciate especially the  
9 hard work of Mr. Gray for analyzing these projects. I  
10 appreciate the company for putting them forward. I think  
11 that they -- obviously, they comport with the vision of, I  
12 think, both the company and the people of Pima County and  
13 the folks who count themselves customers of TEP to do a  
14 lot of solar energy in the load pocket. I think people  
15 are interested in seeing solar projects close to them.  
16 Maybe in one case it's a little too close for comfort, but  
17 hopefully we can work through some of those issues.

18 You know, this will help TEP come into compliance  
19 with the Renewable Energy Standard, but I think it's  
20 important to remember how modest our standard is. Right  
21 now our utilities will be doing a couple of percentage  
22 worth of renewable energy, while the utilities in  
23 California are doing between 11 and 17 percent renewable  
24 energy. So despite the fact that we're moving forward, we  
25 are really way behind some other states. Colorado just

1 took their renewable energy standard to 30 percent. Every  
2 state surrounding Arizona now has a higher renewable  
3 energy standard than ours. So while I think we are moving  
4 forward judiciously, there's still a lot more that we  
5 could do.

6 I vote aye.

7 By your vote of five ayes and zero noes, you have  
8 approved Item No. 23.

9 (Item U-23 concluded at 11:15 a.m.)

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1 STATE OF ARIZONA )  
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 2 COUNTY OF MARICOPA )

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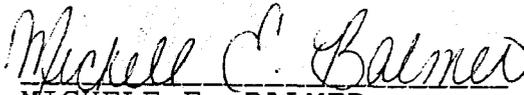
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I, MICHELE E. BALMER, Certified Reporter  
 No. 50489 for the State of Arizona, do hereby certify that  
 the foregoing printed pages constitute a full, true and  
 accurate transcript of the proceedings had in the  
 foregoing matter, all done to the best of my skill and  
 ability.

WITNESS my hand this 10th day of April, 2010.



MICHELE E. BALMER  
 Certified Reporter  
 Certificate No. 50489

**ARIZONA CORPORATION COMMISSION**  
**UTILITY COMPLAINT FORM**

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Investigator: Jenny Gomez

Phone: (520) 628-6550

Fax: (520) 628-6559

Priority: Respond Within Five Days

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Inquiry No. 2010 - 88706

Date: 8/18/2010

Complaint Description: 19Y Other - Elec Dereg - Renewable Resource Portfolio  
10Z Construction - Other

Complaint By: First: Rick Last: Westfall

Account Name: Rick Westfall

Home: (520) 907-6969

Street: 8855 N. Sanders Rd.

Work:

City: Tucson

CBR: rawestfall1@yahoo.com

State: AZ Zip: 85743

is: E-Mail

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Utility Company: Tucson Electric Power Company

Division: Electric

Contact Name: [REDACTED]

Contact Phone: [REDACTED]

Nature of Complaint:

Tucson Electric Power has entered into a PPA with FRV. FRV has entered into a long term lease with Tucson Water and the City of Tucson for 305 acres to construct a PV solar facility. This facility will be connected to my property without any barriers, I am the only adjacent property owner to the site. I have contacted all of the parties about this project. This project and its location are going to ruin my property and have an adverse effect on it's value. My quality of life will be ruined by this project. I have lived on this property since 1993. I spoke in open session at the ACC hearing on April 1 2010. I feel this project is in direct violation of AZ Prop 207 2006.

When customer contacted TEP what was your response to customer? Please provide a copy of your response to customer.

Customer stated that he feels this project is in direct violation of AZ Prop 207 2006. Is this project in violation of AZ Prop 2006? Please explain.

Please contact customer and respond to ACC.

\*End of Complaint\*

Utilities' Response:

When customer contacted TEP what was your response to customer? Please provide a copy of your response to customer.

Mr. Westfall is not a Tucson Electric Power Company (TEP) customer. Moreover, his complaint is not related to service provided by TEP or a violation of law by TEP. Therefore, TEP believes that Mr. Westfall's complaint to the Arizona Corporation Commission (Commission) does not warrant investigation as it is a private property dispute between Mr. Westfall and Tucson Water.

That being said, TEP has been in regular communication with Mr. Westfall since February of 2010. The Company is aware of his objections to the City of Tucson's and Tucson Water's use of the property adjacent to his home. Mr. Westfall has spoken with several people at TEP, including: Carmine Tilghman, Director of Renewable Energy Resources; Phil Dion, Vice President of Public Policy; Joe Salkowski, Director of Corporate

**ARIZONA CORPORATION COMMISSION**  
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Communications, and Melody Gilkey, Regulatory Counsel. TEP representatives also visited personally with Mr. Westfall at his residence prior to a public meeting in Marana to discuss the solar project in question.

TEP understands Mr. Westfall's position regarding his property; he does not want the solar panels next to his home. However, Mr. Westfall does not own the land adjacent to his property. Tucson Water owns the property and Tucson Water has decided to lease it to FRV. TEP is not a party to the contracts between Tucson Water and FRV. TEP has entered into a Commission approved contract with FRV to buy the solar energy produced at the site, but that is the extent of TEP's involvement in this issue. Moreover, Mr. Westfall was at the Open Meeting where the contract was approved and he was able to voice his concerns to the Commissioners. TEP has communicated all of this information to Mr. Westfall on numerous occasions.

Currently, TEP is contractually obligated to purchase the power FRV produces, the Commission has approved the contract, and TEP needs the output to meet Commission mandated renewable energy standards. TEP cannot cancel its contract with FRV because Mr. Westfall is displeased with Tucson Water's use of its land. FRV has met with residents in the area of the solar site, including Mr. Westfall. TEP was present at the public meeting where FRV committed to Mr. Westfall and at least 20 other residents to make the site visually pleasing. TEP has not received any complaints from the other property owners surrounding the solar site, and is not aware of FRV or Tucson Water receiving any other complaints.

Customer stated that he feels this project is in direct violation of AZ Prop 207 2006. Is this project in violation of AZ Prop 2006? Please explain.

Arizona Proposition 207 was a ballot initiative passed by Arizona voters in 2006 relating to private property rights, condemnations and takings by governmental entities, and just compensation recovery methods. The solar project in question cannot be in violation of Proposition 207. Mr. Westfall's assertion is that Tucson Water leasing its property to FRV is in violation of Proposition 207, but this does not involve TEP or the Commission. Rather, this dispute is between Mr. Westfall and Tucson Water, and as far as TEP is aware, Mr. Westfall is actively engaged with Tucson Water on this issue.

\*End of Response\*

**Investigator's Comments and Disposition:**

8/18/10 Emailed to TEP

I called customer and left a detailed message advising him that I have received his letter and left my name and telephone number.

8/24/10

I received a call from customer and he advised that he has contacted just about every agency in town in reference to this inquiry.

8/25/10 4:00 p.m.

Customer called and wanted to know if I had received a response from TEP. I advised that I had not.

8/26/10 9:00 a.m.

I called customer and advised that I had received a response from TEP. He asked me to mail a copy to him.

Please see utility's response for details. FILE CLOSED

\*End of Comments\*

Date Completed: 8/26/2010

Inquiry No. 2010 - 88706

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